LENS WILL BE MORE SCHOOLHOUSE THAN COURTHOUSE

LAY OF THE LAND
THE GENERAL STATE OR CONDITION OF AFFAIRS UNDER CONSIDERATION; THE FACTS OF A SITUATION
(1) Trained Ear and Trained Eye
(2) Help Decode
(3) Train the Trainer

All Hands on Deck - Train

Foundational Principles

9:00 A.M. – 9:30 A.M.
Legal advice is NOT A single point

For Example
- Weingarten
- Notice of Investigation
- Accelerated Discipline
- Winter musical set list

Influenced By
- Legal
- Political
- Historical
- Economic

Federal Law and Regulations
State Law and Regulations
Case Law (Stare Decisis)
Federal Agency Guidance (DOE, OCR, DOL)
State Agency Guidance (OSPI, SOS, SAO)
Collective Bargaining Agreements
Contracts/Materials (Vendor, Facility Use)
Board Governing Policies
District Regulations/Procedures
Job Description
Progressive Discipline
Letters of Direction
Widely Known Workplace Rules
Past Practice
Professional Service Organization principles

Call HR

Call HR?
IMMIGRATION

9:30 A.M. – 9:50 A.M.

Kindergarten to Grade 12 Schools

Kindergarten through 12th grade (K-12) schools that want to enroll F-1 or M-1 students must be Student and Exchange Visitor Program (SEVP)-certified. To learn more about the responsibilities and the commitment involved with SEVP-certification, please visit the Study in the States’ Certification Responsibilities page.

A Private School at the elementary and/or secondary grade level (i.e., grades K-12) is eligible for SEVP certification. SEVP does not certify, and schools can therefore not issue Forms I-20 for, programs of study below the kindergarten level.

Regulations place no limit on the length of time an F-1 student may attend a private, SEVP-certified school. F-1 students attending a private K-12 school are responsible for paying the program’s tuition.
Only schools that are certified by the Department of Homeland Security's (DHS) Student and Exchange Visitor Program (SEVP) may issue I-20 forms to prospective foreign students. See 8 C.F.R. § 214.2(f).

In order for District high schools to become SEVP-certified, a District would be required to submit a “Petition for Approval of School for Attendance by Nonimmigrant Student” and supporting documentation. As part of the petition, a District would be required to certify that designated school officials have read and understand certain DHS regulations regarding nonimmigrant foreign students and the school certification process and that the school and officials intend to comply with the regulations at all times. See 8 C.F.R. 214.3.

A District would also have to pay a fee, which is currently $1,700 plus $655 for each high school seeking certification, and may be required to submit to interviews under oath by a DHS representative. In addition, DHS would conduct a site visit at each petitioning school, during which the DHS inspector would gather evidence on school eligibility for certification, review the facilities, and interview designated school officials, including the person nominated to be the designated school official.

If the certification was approved, a District would be required to comply with numerous recordkeeping and reporting obligations, permit on-site reviews by SEVP at any time, and apply for recertification every two years. DHS has posted the following on its website related to SEVP certification:

In obtaining SEVP certification, a school makes a legally binding commitment to comply with applicable federal laws, regulations and DHS requirements. School officials should carefully consider the decision to petition for certification. It is a business decision that requires a financial commitment, significant personnel commitment and strict adherence to reporting and record keeping requirements. School officials should consider this decision within the context of the school’s strategic direction, long-term planning and ability to conform to regulatory requirements.

Furthermore, when issuing an I-20 form to prospective foreign students, the designated school official would be required to certify that the school reviewed the student’s transcripts or other records of courses taken, proof of financial responsibility for the student, and other supporting documentation; and determined that the prospective student’s qualifications met all the standards for admission. 8 C.F.R. 214.3(k). DHS has stated that if a school district issues an I-20 form, it becomes the responsible party that would be accountable to a federal agency with authority.

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Immigrant Students’ Rights to Attend Public Schools

The U.S. Supreme Court ruled in Plyler vs. Doe (457 U.S. 202 (1982)) that undocumented children and young adults have the same right to attend public primary and secondary schools as do U.S. citizens and permanent residents. Like other children, undocumented students are obliged under state law to attend school until they reach a mandated age. As a result of the Plyler ruling, public schools may not:

- Deny admission to a student during initial enrollment or at any other time on the basis of undocumented status.
- Treat a student differently to determine residency.
- Engage in any practices to "chill" the right of access to school.
- Require students or parents to disclose or document their immigration status.
- Make inquiries of students or parents that may expose their undocumented status.
- Require social security numbers from all students, as this may expose undocumented status.

Students without social security numbers should be assigned a number generated by the school. Adults without social security numbers who are applying for a free lunch and/or breakfast program on behalf of a student need only indicate on the application that they do not have a social security number.

Changes in the F-1 (Student) Visa Program do not alter the Plyler obligations to undocumented children. These changes apply only to students who apply for a student visa from outside the U.S.

Finally, school personnel -- especially building principals and those involved with student intake activities -- should be aware that they have no legal obligation to enforce U.S. immigration laws. (U.S. Supreme Court, 1982)

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The State of Washington Office of Superintendent of Public Instruction (OSPI) is responsible for overseeing and supporting the education system in Washington, ensuring that all students have access to high-quality educational opportunities. OSPI provides guidance, resources, and support to districts, schools, and educators to help create a successful learning environment for all children. This includes Migrant and Bilingual Education, which focuses on providing support and resources for students who are migrants or have limited English proficiency. The Office also promotes equity and excellence in education, ensuring that all students, regardless of their background, have the opportunity to succeed.
A District may not deny admission to students based on visa status, even for F-1 and F-2 visas. *Plyler vs. Doe* held that the Equal Protection Clause bars public schools from denying a public education based on immigration status. *Plyler* has not been overturned. Current immigration statutes and regulations cannot override a school district’s constitutional obligations under *Plyler*, nor do they purport to. Instead, federal authority describes actions the immigrant must take to remain in status and prohibited actions which might lead to cancellation of that status. See 8 USC §1184(m) (limiting ability of aliens to “be accorded status as a nonimmigrant” to pursue studies in public elementary schools and secondary schools).

These regulations establish that an alien in the United States with specific nonimmigrant or exchange visas risks losing status by enrolling in public schools under certain circumstances. Neither federal statute nor regulation create a duty on public schools to deny admission to holders of specific visas. Cf. Educational Services for Immigrant Children and Those Recently Arrived to the United States (9/19/2014).

In March 2015, OSPI confirmed that *Plyler* controls the obligation of Washington school districts to immigrants. “Changes in the F-1 (Student) Visa Program do not alter the *Plyler* obligations to undocumented children. These changes apply only to students who apply for a student visa from outside the U.S.” Additionally, OSPI reminded school personnel, “especially building principals and those involved with student intake activities... that they have no legal obligation to enforce U.S. immigration laws.” Immigrant Students’ Right to Attend Public Schools, available at http://www.k12.wa.us/MigrantBilingual/ImmigrantRights.aspx.

Thus, A District is under no obligation to restrict the admission of any immigrant into its schools. Enforcement action by ICE or other federal immigration authority against the District would be highly unlikely. See Enforcement Actions at or Focused on Sensitive Locations available at https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf (ICE policy against conducting arrests, interviews, searches or surveillance on school grounds). Even if that policy shifts, I found no regulation or statute empowering any federal entity to take adverse action against the District if it admits immigrants with certain types of visas. The District does not face significant legal risk if it admits students regardless of immigration status. *Plyler*, 457 U.S. at 230 (“If the State is to deny a discrete group of innocent children the free public education that it offers to other children residing within its borders, that denial must be justified by a showing that it furthers some substantial state interest. No such showing was made here.”) If the District fails to admit a student in the United States on a nonimmigrant or exchange visa, that student could seek to bring constitutional claims against the District under *Plyler* and 42 U.S.C. § 1983. Therefore, the District may face increased legal risk if it fails to admit a student based on visa status.

- It is our understanding that minor children with F-2 and B-2 visas may not attend a public elementary school in the United States. However, the available information from the United States Department of State’s website indicates that a minor child with a J-2 visa may attend school in the United States. For your reference, I have provided you links to the two sections of that website. See J-2 privileges description, available at http://j1visa.state.gov/basics/j2-visa/; see also http://travel.state.gov/content/visas/en/study-exchange/exchange.html#spouse.

- However, you should confirm this information with your personal attorney or the consulate prior to arranging for your son’s travel to the United States.
Registrars should not be inquiring about immigration status when enrolling new students (but simply for proof of residence within the District/school’s boundaries), but if the individual volunteers that the child is on a student visa (F-1), current U.S. Government guidance does indicate severe limits on the District’s ability to enroll the child.

Specifically, A District is barred from enrolling an F-1 student into an elementary school. A District may only enroll an F-2 student into middle/high school for 1 year and the District must use the Form I-20 to charge the student/adult sponsor the actual costs for school services. However, only a Student and Exchange Visitor Program (SEVP)-certified school can issue a Form I-20.

Further, even if schools within A District were certified, the current U.S. government guidance is that this education costs may not be waived by the District.

The only apparent flexibility in the system is whether the child is actually a child/dependent of an adult F-1 holder or other valid nonimmigrant visa. For an adult F-1 visa holder, for example, their child would be considered on F-2 status, and could enroll in a District school (elementary or secondary) without limitation.
• In the circumstance of a parent living outside of the US but the student is a U.S. citizen (and not subject to the F-1 visa limitations), a District ought to comply with the state regulation defining residency for enrollment purposes as where the student spends the majority of his/her time, not where the parent resides (and/or requiring them to both live together). See WAC 392-137-115. Notably, that regulation explicitly provides that the parent and student may have different residences and mailing addresses.

• If enrolled, my position is that it is in the best interests of the parent to complete some form of power of attorney authorizing the adult/guardian at the student’s in-District residence to make educational and/or medical decisions in the absence of the biological parent.

• For the District’s purposes, the parent should be provided a copy of the District’s standard information exchange/release form authorizing the District to exchange records and information about the student with the adult/guardian where the student is residing. FERPA defines parent broadly, including “an individual acting as the parent in the absence of a parent or guardian.” 34 CFR 99.3. Thus, based upon a completed release/exchange of information form and the enrollment paperwork indicating the student is living with the adult/guardian, the District is likely justified in communicating with and relying upon the adult/guardian where the student is residing to serve as the “parent” for purposes of day-to-day issues.

• For purposes of reviewing requests for enrollment for students and parents who reside within a neighboring school district, I would argue that we can continue to enroll on the non-resident transfer application and appeal processes under RCW 28A.225.225.

• Given the concerns about the number of potential students claiming to live within a district’s boundaries, the resources necessary to confirm those claims, and the potential for families attempting to circumvent the WIAA athletic eligibility rules, e.g., for purposes of playing football, it appears appropriate to require that any family who asks for their child to enroll in the District while living within a neighboring school district complete the District’s inter-district transfer application. This will ensure we have proper oversight and regulation of the enrollment of such students and increase our ability to comply with the applicable funding and athletic eligibility requirements for students who should otherwise be attending school within their resident Washington school district. Parents would then have the opportunity for due process on the denial of such inter-district application decisions under RCW 28A.225.230.
PROHIBITION OF HARASSMENT, INTIMIDATION AND BULLYING

9:50 A.M. –10:30 A.M.

HIB

Peer Conflict

Severe Persistent Intentional

HIB Harm Disruption

Minor Resolved Unintentional No “harm” No Disruption
CONFLICT

- Power Differential
- Vulnerable
- Intentional
- Targeted

RESOLUTION

HIB

CONFLICT
District “duty” is to restore normative academic and social experiences.
Series 3000: Students

Prohibition of Harassment, Intimidation & Bullying – 3207

The District is committed to a safe and civil educational environment for all students that is free from harassment, intimidation or bullying.

Complaints alleging harassment, intimidation, or bullying of parents or volunteers arising out of District programs will be processed via Regulation 4011.

A. Harassment/Intimidation/Bullying Defined

“Harassment, intimidation or bullying” is defined for purposes of this Regulation as any intentional written message or image - including those that are electronically transmitted, verbal or physical act, including but not limited to one shown to be motivated by race, color, religion, ancestry, national origin, gender, sexual orientation or mental or physical disability, or other distinguishing characteristics, when the act:

(a) Physically harms a student or damages the student’s property; or
(b) Has the effect of substantially interfering with a student’s education (for example, substantially interfering with classroom performance, attendance, or pattern of tardiness) or
(c) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or
(d) Has the effect of substantially disrupting the orderly operation of the school.

F. Staff Intervention

All staff members shall intervene when witnessing or receiving reports of harassment, intimidation or bullying. Minor incidents that staff are able to resolve immediately, or incidents that do not meet the definition of harassment, intimidation or bullying, may require no further action under this procedure.
Isn't it just part of growing up?

Yes, issues of assertiveness and aggression, playing and teasing, inclusion and exclusion, rejection and revenge are developmental tasks that every child has to resolve in his or her own way.

However, if it is implied that teasing, bullying and ostracism are acceptable behaviors i.e. that children should just put up with it, the answer is categorically no.
CONFLICT
(Peer, Personality, Interpersonal)

• Conflict is a struggle between two or more people who perceive they have incompatible goals or desires.
• Conflict occurs naturally as we interact with one another.
• It is a common (Avoid saying “Normal”) part of life that we will not always agree with other people about the things we want, what we think, or what we want to do.
• Most conflicts arise in the moment because people of the same relative amount of power see the same situation from two different points of view.

• Discrimination and or Hib is UNACCEPTABLE BEHAVIOR
Kids look forward to recess and lunch, and passing times, and are excited to move, but it may not be a positive experience for everybody.

So it is important that adult supervisors are not only visible to students but also attentive to what is transpiring around them.

While they are circulating they should be praising positive behavior and helping children solve problems if necessary.

If kids congregate in an area but do not actually play, have a supervisor suggest several activities they could undertake instead.

As a school employee, you have day-to-day contact with many young people. You are therefore well-positioned to observe students' behavior and to act when you suspect that a student may be vulnerable or being subjected to HIB.
BEST PRACTICES

- Circulating AND Proximity
- Don’t Let Non-Verbals Mislead You
- Responsible Play Guidelines/Expectations, but NOT rules (laminated index cards)
- Have alleged Targeted Students retrieve equipment from you to start
- The role of data as to hot spots and or frequent flyers
What Happened? Was it on Purpose?

BOTHERSOME BEHAVIOR

Laying in Wait

Laying in Dread
REMEMBER “PARADE PERFECT”

Look into the social dynamic not merely the event
Reduce To Form 3207

The Real Bullies at School

Teachers are satisfied for being too hard on students, so why aren’t coaches held to the same standard?
HAZING
Initiation Rituals
Rites of Passage
Establish Power Differentials

- Tough it out
- Get over it
- Resilience
- Others have endured it
- Sign of belonging or commraderie

Permissive Atmosphere
Fostered an Environment
Cover-Up/Minimize/Downplay

TRANSGENDER/DIVERSITY
9:50 a.m. – 10:30 a.m.
PHILOSOPHY OF GENDER IDENTITY PARTICIPATION: The WAA allows participation for all students regardless of their gender identity or expression. The purpose of the policy is to designate a set of criteria through which student-athletes are able to compete on a level playing field in a safe, competitive, and friendly environment. Fundamental fairness, as well as state/local, state, and federal rules and regulations, requires schools to provide transgender student-athletes with equal opportunities to participate in athletics. This policy creates a framework by which this participation may occur in a safe and healthful manner that is fair to all competitors.

18.15 TRANSPARENT IDENTITY PARTICIPATION: All students should have the opportunity to participate in WAA activities in a manner that is consistent with their gender identity, irrespective of the gender listed on a student’s record. Should any questions arise as to whether a student’s request to participate in a co-ed activity is consistent with their gender identity, a student’s advisor or coach will work with the student to determine if their gender identity is consistent with the activity. If the activity is consistent with the student’s gender identity, the student will be allowed to participate.

NOTE TO THE SCHOOL: The school and parent/parent guardian shall contact the school administrator or athletic director indicating that the student is requesting to participate in an activity consistent with their gender identity. The school will then contact the student’s advisor or coach to determine if the activity is consistent with the student’s gender identity.

NOTE TO THE WAA: The school will contact the WAA office, which will be in contact with the student and parent/parent guardian indicating the school’s decision to participate in athletics consistent with the student’s gender identity.

18.15.1 NOTICE TO THE STUDENT: The student shall be notified of the school’s decision regarding their participation in athletic activities consistent with their gender identity.

18.15.2 NOTICE TO THE WAA: The school shall forward the school’s decision to the WAA office, which will be in contact with the student and parent/parent guardian indicating the school’s decision regarding their participation in athletic activities consistent with their gender identity.

18.15.3 APPEAL PROCESS: The student shall have the right to appeal the school’s decision regarding their participation in athletic activities consistent with their gender identity.

18.15.4 DOCUMENTATION: The school shall provide the necessary documentation to support the student’s request to participate in athletic activities consistent with their gender identity.

APPENDIX 6 — GENDER IDENTITY

DEFINITIONS:
For the purposes of this policy, the following definitions apply:

1. Transgender Person: A person whose gender identity does not match the sex assigned to him or her at birth. This cross-gender identification is often referred to as gender dysphoria. When the gender dysphoria causes clinically significant distress or impairment, it is sometimes classified as Gender Identity Disorder. A transgender person is one who is born female-bodied and identifies as male, female, non-binary, gender confused, or transgender. A transgender person is one who is born male-bodied but identifies as female and is referred to as a transgender woman or a male-to-female transgender.

2. Intersex Person: “Intersex” is a general term used to indicate a person born with a reproductive or sex-related anatomy that doesn’t fit the typical definitions of female or male. This may be the result of several different medical conditions involving chromosomal variations, hormonal variations, ambiguous genitalia, and/or anatomical features that include both male and female characteristics. The medical term for this condition is Intersex Development of “DSD.” “Intersex” is not the same as “transgender,” although some people identify as both intersex and transgender. However, the two groups may face similar situations in need of change gender designations for the purposes of participation in school activities.

3. Gender Identity: A person’s deeply felt internal sense of being male or female.

4. Gender Expression: A person’s external characteristics and behaviors that are not typically defined as either masculine or feminine, such as dress, manners, speech patterns, and social interactions.

CORE VALUES:
The WAA Gender Identity policy has been developed based on the following core values:

- Recognizing the value of extra-curricular athletics for all students
- Ensuring that participation in extra-curricular athletics is not just allowed, but encouraged for all students
- Striving to create a gender identity and expression policy that could be a model for other state associations
- Adhering to Washington state and federal law regarding gender equity and educational opportunity
- Operating from the presumption that all students will have access to programs and eligibility policies
- Enacting a policy that will maximize flexibility and privacy with minimal restrictions
- Creating a level playing field for all students
- Reducing economic barriers, especially for minority populations
- Addressing the concerns of parents, teachers, and coaches through an educational component
- Acknowledging that the WAA policy will likely need to be reviewed and revised to reflect increased medical understanding and evolving societal norms
- Grounding a policy in sound medical practice
- Preserving existing practices regarding girls’ participation on boys’ teams as per current WAA policy
- Providing a space for intersex and transgender students to exist and thrive
- Reducing bullying and harassment of students
• Can a District enroll a student under a preferred name that was established in an expired court order? In a nutshell, if the
   parent provides a sworn affidavit of common law name change to the student’s preferred name, the District can enroll her
   under that name.
• OSPI’s CEDARS Reporting Guidance states a district should enroll a student under their legal name “whenever
• But this document further states a district should change a student’s legal name if it receives “documentation of a legal name
   change,” which includes “an affidavit of name change made pursuant to common law.” (see page 7). Under Washington common
   law, a person can change his or her name without a court order. See Doe v. Dunning, 87 Wn.2d 50, 53, 549 P.2d 1
   (1976). Accordingly, the parent should be permitted to change student’s name by signing an affidavit of common law name change
   that affirms student’s preferred name has been used consistently and exclusively for all purposes and was not changed for
   fraudulent purposes. (See the following UW guidance as well: https://depts.washington.edu/qcenter/wordpress/frequently-
   used-resources/legal-name-change-in-wa-state/.)
• Although targeted to issues related to transgender students, the 2012 OSPI publication on Prohibiting Discrimination in
   publication, OSPI advises that legal names must be used for official records and standardized testing purposes, but preferred
   names can be used on non-legal documents such as student IDs. However, this publication also states a district should change a
   student’s name when the district receives notice of a court order or other amendment to federal or state identification.
• Given this, a District should give the parent the option of submitting an affidavit of common law name change. If the parent
   submits an affidavit as outlined above, the District can treat that affidavit as proof equivalent to a court order of name
   change. Without such an affidavit, a District should advise the family it will enroll the student under the legal name, but use
   the preferred name day-to-day.
• A District should also note that, without a court-ordered name change, the student may face difficulty when applying for
   college or jobs after graduation. Schools, employers, and the ACT/SAT may look for birth certificates or non-expired court
   orders to establish the student’s identity, which will not match the common law name reflected on school records.

WHO HAS THE RIGHT TO AMEND EDUCATION RECORDS UNDER FERPA AND WHETHER THOSE RIGHTS WERE THE SAME FOR TRANSGENDER STUDENTS? Under
FERPA, parents control student education records until the student reaches the age of 18 or begins attending an institution of
postsecondary education. At that point, the student becomes what is called an “eligible student” under the law, and the rights under
FERPA are transferred to the student. 34 CFR 99.3 (“Eligible student means a student who has reached 18 years of age or is attending
an institution of postsecondary education.”), 34 CFR 99.5(a) (“When a student becomes an eligible student, the rights accorded to,
and consent required of, parents under this part transfer from the parents to the student.”). 34 CFR 99.20(a) provides that “If a
parent or eligible student believes the education records relating to the student contain information that is inaccurate, misleading,
or in violation of the student’s rights of privacy, he or she may ask the educational agency or institution to amend the
record.” Accordingly, the right to request amendment of student records lies with the parent until the student becomes an eligible
student as defined above.

The language in FERPA regarding amendment of records would apply to transgender students as there is not a carve-out for those
students. Note that in a May 2016 Dear Colleagues letter regarding transgender students DOE reiterated the FERPA process for
record changes for transgender students. This guidance document has since been rescinded as of February 2017, but it did support the
general proposition that transgender students would be required to follow this same process to amend their records.

NOTE THAT THE DISTRICT MAY STILL USE A STUDENT’S PREFERRED NAME ON NON-LEGAL DOCUMENTS AS SET FORTH IN GUIDANCE FROM OSPI:

61. How should school districts address a student’s name and sex on official records?

School districts maintain permanent student records that include a student’s legal name and legal gender. To the extent that the
school district is not legally required to use a student’s legal name and gender on school records or documents, the district should
use the name and gender by which the student identifies. School IDs, for example, are not legal documents and should use the student’s
preferred name. The school district should change a student’s official record to reflect a change in the student’s legal name or
gender upon receipt of documentation that such change has been made pursuant to a court order or through amendment of state- or
federally-issued identification. In situations where school staff or administrators are required by law to use or report a student’s legal
name or gender, such as for standardized testing, school staff should adopt practices to avoid the inadvertent disclosure of
such confidential information.
MAINTAINING PROFESSIONAL BOUNDARIES

10:45 a.m. – 11:30 a.m.
MAINTAINING PROFESSIONAL BOUNDARIES
ACCELERATION LANGUAGE IN CONTRACTS

Unacceptable Conduct

Examples of inappropriate boundary invasions by staff members include but are not limited to the following:

- Any type of inappropriate physical contact or communication with a student or any other conduct that violates the Board's policies on Employee Conduct (Regulation 5010), Harassment Intimidation and Bullying (Regulation 5207), Non-Discrimination (Regulation 5010), or Sexual Harassment (Regulation 5013), Title IX of the Education Amendments of 1972 (Title IX), or the Washington State Law Against Discrimination (Chapter 49.60 RCW), constitutes misconduct under RCW 28A.640 and .642 or WAC 181-88-060, or any conduct between staff and students that would constitute a violation of Chapter 9A.44 or 9A.88 RCW;

- Showing pornography to a student;

- Singling out a particular student or students for personal attention and friendship beyond the professional staff-student relationship;

- Socializing where students are consuming alcohol, drugs or tobacco,
• For non-guidance/counseling staff, **encouraging** students to confide their personal or family problems and/or relationships. If a student initiates such discussions, staff members are expected to refer the student to appropriate guidance/counseling staff. In either case, staff involvement should be limited to a direct connection to the student's school performance;

• Sending students on personal errands unrelated to any educational purpose;

• Banter, allusions, jokes or innuendos of a sexual nature with students;

• Disclosing personal, sexual, family, employment concerns, or other private matters to one or more students;

• Addressing students, or permitting students to address staff members with personalized terms of endearment, pet names, or otherwise in an overly familiar manner;

• Maintaining personal contact with a student outside of school by phone, email, Instant Messenger or Internet chat rooms, social networking Web sites, or letters (beyond homework or other legitimate school business) without including the parent/guardian.

• Exchanging personal gifts, cards or letters with an individual student which are unrelated to school activities;

• Sending phone, email, text messages, or other forms of written or electronic communication to students when the communication is unrelated to school work or other legitimate school business;

• Socializing or spending time with students (including but not limited to activities such as going out for beverages, meals or movies, shopping, traveling, and recreational activities) outside of school-sponsored events, except as participants in organized community activities;

• Giving a student a ride alone in a vehicle in a non-emergency situation; and/or

• Unnecessarily invading a student's privacy, (e.g. walking in on the student in the bathroom)
**Appearances of Impropriety**

The following activities can create an actual impropriety or the appearance of impropriety. Whenever possible, staff should avoid these situations. If unavoidable, these activities should be pre-approved by the appropriate administrator. If not pre-approved, the staff person must report the occurrence, to the appropriate administrator, as soon as possible.

- Being alone with an individual student out of the view of others;
- Inviting or allowing individual students to visit the staff member’s home;
- Visiting a student’s home; and/or
- Sending e-mails, text messages or other electronic communications to the student, even when the communication relates to school business, except where the parent or guardian has consented to such communications and administrative permission has been granted. Staff should use school e-mail address and phone numbers and the parents’ phone numbers for communications with students, except in an emergency situation.
- Staff shall not initiate or respond by way of an individual text messages with a student without including a parent, administrator, colleague, classmate, or teammate.
Part Two: Responding to Sexual Harassment

How should a school respond when it receives information about alleged sexual harassment?

If a student, his or her parent, or a responsible employee reports the harassment, or a school employee observes the harassment, the school should inform the harassed student (and the student’s parent depending on the student's age) of the options for formal and informal action and of the school's responsibilities, which are discussed below. Regardless of whether the victim files a formal complaint or requests action, the school must conduct a prompt, impartial, and thorough investigation to determine what happened and must take appropriate steps to resolve the situation.

If other sources, such as a witness to the incident, an anonymous letter or phone call, or the media, report the harassment, the school should respond in the same manner described above if it is reasonable for the school to conduct an investigation and the school can confirm the allegations. Considerations relevant to this determination may include, but are not limited to, the:

- source and nature of the information;
- seriousness of the alleged incident;
- specificity of the information;
- objectivity and credibility of the source that made the report;
- ability to identify the alleged victims; and
- cooperation from the alleged victims in pursuing the matter.
SPEECH
11:30 A.M.—12:15 P.M.

SOCIAL AND POLITICAL SPEECH
WHERE IS “SPEECH”

- On Their Person?
- On a wall?
- On their vehicle?

LIMITED PUBLIC FORUM

WHEN IS SPEECH?

- Duty Free?
- Planning Time?
- Instructional time?
- Break Time?
SAMPLE TALKING POINTS -

- **Staff are entitled to express their points of view regarding political issues on their own time.**

- **Our teachers' agreement recognizes that as part of academic freedom, staff may choose to instruct students about controversial issues related to the curriculum** (CBA, Article 2, Section 3).

- **When teachers choose to instruct students about controversial issues, they are expected to use a balanced approach that recognizes various and/or conflicting points of view and allows students opportunity to form, identify, and express their own opinions on such issues.**

- **I reviewed these expectations with staff and believe they understand them.**
ADDITIONAL CONSIDERATION

• A related point is that the CBA indicates staff academic freedom requires teaching about controversial topics “in an atmosphere free from bias and prejudice.” One could argue that clothing expressing the teacher’s position injects prejudice into any classroom discussion on that topic. Teacher response is critical.

REDIRECT

To me it means social justice

Take a look

Talk to your folks
Hundreds of high school and youth sports athletes have undertaken stands similar to those at the professional level at the beginning of games. The issue facing school and athletic administrators has been whether to sanction players conducting such protests with suspensions or expulsions from their teams and whether such punishments would be constitutionally permissible or would violate the student-athletes' First Amendment rights to freedom of speech, expression and protest.

Based on U.S. Supreme Court decisions interpreting the authority of schools to limit student speech, any penalties levied by a public school (a state actor) on a national anthem protest would have to pass judicial scrutiny on constitutional grounds should the student file a free speech challenge in court.

In the Supreme Court’s decision in Tinker v. Des Moines Independent Community School District (1969), Justice Abe Fortas made the now-famous statement in the Court’s majority opinion that “students do not shed their constitutional rights at the schoolhouse gate” and concluded that schools do not have the authority to limit student speech unless it “materially and substantially” interferes with the educational process. Subsequent cases clarified that schools may limit on-campus student speech that is lewd or profane, speech that is part of the school curriculum (such as a student newspaper), speech that advocates drug use by students and speech that constitutes a true threat against the school community.

The national anthem protests that have taken place at dozens of high school sports events nationwide most likely do not fit into any of those categories of permissible restrictions on student speech.
Sen. James Lankford, R-Okla., said Monday that it’s not fair that athletes who kneel in protest are celebrated, while coaches who kneel in prayer are often fired.

"For whatever reason in America, if individual players kneel in protest at a football game, that’s seen as free speech," Lankford told reporters.

"We do have high school coaches that have kneeled in silent prayer, and they’ve been fired," he added. That’s an apparent reference to a high school coach in Washington state who was suspended for praying at the end of a game.

"We can’t say to one football coach, you’re fired if you kneel in silent prayer at the end of the game, but to a player, if you kneel in protest at a game, you’re celebrated," Lankford said. "We’ve got to be able to determine where we are as Americans on that, if we’re going to honor all free speech and all free exercise of religion, we ought to be able to honor that universally."
The lyrics for “Elijah Rock,” “Music Down in My Soul,” and a translation of “Musica Dei” and reviewed the District’s Regulations 2340 and 2340P.

Overall, it appears that the selections are likely consistent with district regulations and governing law. The teacher has reported neutral, pedagogical reasons for selecting these pieces. And the selection of some religious pieces is consistent with the District’s overall policy of inclusion for educational purposes.

At the same time, there is some risk here. Context is key. As the District’s policy acknowledges, younger students, including to some extent those in middle school, are more impressionable. See Reg. 2340 at 1. Further, the pieces all appear to be Christian in origin. The song “Music Down in My Soul” in particular includes some relatively strong language (“There must be a God somewhere... Do you love the Lord?”). And the secular pieces do not appear to be expressly nonreligious. In the end, any challenge would depend upon these and other surrounding facts and circumstances, including how the pieces were taught to the children and presented to the audience.

There are steps that can be taken to mitigate the risk involved in such circumstances.

First, the District’s regulation rightly indicates that in the context of musical performances with religious content, “an introduction to the musical selections should be presented in writing on the program or verbally by the teacher,” and should include “the qualifying factors for the selections.” 2340P(J)(5).

Second, a teacher should also identify for the students at the time of instruction the neutral, educational grounds for the selections. This would further help avoid any appearance of coercion or indoctrination.

Third, a teacher opting to include religious content for educational purposes should seek out, to the fullest extent consistent with identified educational goals, a wide variety of such content with numerous origins and characters. This is something that especially can be accomplished and acknowledged over time when multiple or repeating performances are involved.

Effectively implementing these steps likely would require that administrators discuss these issues with teachers who oversee performances, follow up as appropriate, and review programs for religious content and related explanations.
SOCIAL MEDIA

11:30 A.M.—12:15 P.M.
Social Networking Nightmares

Cyberspeak No Evil

By Mike Simpson

Want to get fired from your first teaching job? Don't read this article. Seriously. Just click on to something else. There's nothing to see here. Move along...

First, let's debunk the free speech myth: Many teachers believe they have the absolute First Amendment right to post anything they want on social networking sites, including party pics and details about the boss. After all, they're on their own time and using their own resources.

Sadly, the courts say otherwise.

Thanks to Facebook and MySpace, what used to be private is now very public. And that's the problem, particularly for young teachers: Some seem oblivious to the devastating consequences of posting risky content in a classroom.

Widely Used DOES NOT MEAN Commonly Accepted
RESPONSIBLE USE GUIDELINES

20. EXCESSIVE PERSONAL USE DURING WORKING HOURS

20.1 Personal use is inappropriate where it occurs during normal working hours (but excluding the employee’s lunch or other official breaks), adversely affects, or could reasonably be expected to adversely affect the performance of the employee’s duties, and the use is determined to be more than insignificant.

All new staff will receive awareness training as part of their orientation program, ensuring they fully understand DISTRICT online safety expectations Regulations and responsible use guidelines.

PROTECTING PROFESSIONAL IDENTITY

All staff should consider how their online behavior may affect their own safety and reputation.

Communication between adults and between students and adults, by whatever method, should take place within clear and explicit boundaries (See DISTRICT Regulations 5025 – Social Media and 5253 – Maintaining Professional Boundaries). This includes the wider use of technology such as mobile phones, text messaging, social networks, e-mails, digital cameras, videos, web-cams, websites and blogs.

When using digital communications, staff and volunteers should:

(A) Only make contact with students for professional reasons and in accordance with DISTRICT Regulation 5253 and professional guidance.

(B) Not share any personal information with a student e.g. should not give their personal contact details to students including e-mail, home or mobile telephone numbers, unless for reasonable supervision needs while on a DISTRICT sponsored Field Trip.

(C) Not request, or respond to, any personal information from the student, other than that which might be appropriate as part of their professional role, or if the child is at immediate risk of harm.
(d) Ensure that all communications are transparent and open to scrutiny and be careful in their communications with students so as to avoid any possible misinterpretation.

(e) Ensure that if they have a personal social networking profile, details are not shared with their students (making every effort to keep personal and professional online lives separate).

(f) Not post information online that could bring them or the DISTRICT into disrepute.

(g) Be aware of the sanctions that may be applied related to conduct determined to constitute professional misconduct.

(h) E-mail, text or other web based communications between staff / volunteers and a student of the district should (wherever possible) take place using DISTRICT Educational Technology, and if not using District technology than shall include more than one student or adult as a recipient of the information.

(i) Be aware that utilizing personal technology while connected to DISTRICT Educational Technology Resources or related to staff professional activities can create disclosable public records.

Any communications outside the communicated guidelines may lead to disciplinary and/or criminal investigations. Social networking sites are spaces that young people inhabit and yet many professionals overlook the potential they have, if well managed and in accordance with guidance in previous three paragraphs, to bring together young people and professionals, particularly young people that are hard to reach by traditional means. Staff and volunteers should, wherever possible, seek to separate their professional online presence from their online social life and take the following into account when using digital communications:
Careful consideration should be given as to who should be included as “friends” on social networking profiles and which information/photos are available to those friends.

Privacy settings should be frequently reviewed.

The amount of personal information visible to those on “friends” lists should be carefully managed and users should be aware that “friends” may still reveal or share this information.

“Digital footprint” – information, including images, posted on the web may remain there forever. Many people subsequently regret posting information that has become embarrassing or harmful to them.

Official Staff Use of Twitter

✓ Social media such as Twitter can be an effective communication tool with students and stakeholders. Caution is warranted, however, when utilizing Twitter on behalf the DISTRICT and certain guidelines are appropriate.

✓ Generally an account can be managed in a fashion that does not require retweets or following. Twitter users are under no obligation to follow every person who follows the account. In fact, following people blindly is not recommended. Whomever a Twitter user chooses to follow on Twitter can make a powerful statement about interests and influence. There is some etiquette in Twitter that, if one of your followers is a real-life friend or colleague, it is considered a snub if one does not follow them back. If one really is not interested in what he/she has to say but politeness dictates the user must follow them, the recommended course is to create a private Twitter list and leave them out of it.

✓ Where staff create or maintain Twitter accounts related to the DISTRICT, staff should follow only members of the team/club or official activity-related accounts (WIAA, KINGCO, etc.). Under Twitter’s configuration, there is no control over what someone will see if they go to followers as they control how their Twitter account can present itself, including photographs and statements in the headline. This content can include profanity, inappropriate imagery, as well as other content of concern for the DISTRICT and its educational mission. This should not impede the ability to communicate with followers.
WAC 181-87-060

Disregard or abandonment of generally recognized professional standards.

Any performance of professional practice in flagrant disregard or clear abandonment of generally recognized professional standards in the course of any of the following professional practices is an act of unprofessional conduct:

(1) Assessment, treatment, instruction, or supervision of students.

(2) Employment or evaluation of personnel.

(3) Management of moneys or property.

1. What is educational value?

2. What is Supervision purpose?

3. Does it create safe and healthy educational environment for student?

4. Is it a generally accepted practice?

5. Was it good judgment?
5. More Augmented-Reality & Face Filters

If you thought face filters (also known as AI lenses) were popular last year, wait until we see networks continue the push in 2018. Face filters have grown in popularity over the years, but with Instagram’s push toward Stories, you should only expect to see more.

Instagram stated its most popular face filter was the dog ears, which shouldn’t be a surprise as Snapchat’s is the dog filter as well. However, what’s interesting about the two face filter competitors is the advertising ability.
BEWARE VENTING

What, someone filed a complaint about me?

No one gets away with that! Whoever it is will be sorry!

Tell staff, administrators, supervisors, and managers that whatever it is, get over it!
The courts have seen retaliation cases in which employees were fired because they complained about their supervisors on social media.

In each case, the companies cited policies that warned against disloyalty, or breaching confidentiality, or treating co-workers with disrespect.

INVESTIGATION TRAINING

1:00 p.m. – 1:40 p.m.
A Reasonable Investigation

“ASCERTAIN THE FACTS”

Provide a reasonable account of what people and evidence point to having occurred.
TO PREVAIL INSTITUTING CORRECTIVE ACTION

**The Seven Steps of Just Cause**

1. **Notice**
2. **Reasonable Rules & Orders**
3. **Investigation**
4. **Fair Investigation**
5. **Proof**
6. **Equal Treatment/Consistent Application**
   *Similar not Identical*
7. **Penalty**
ASCERTAIN THE FACTS INVESTIGATIVE STEPS

- Complaint intake: Via Complaint, Report, Rumor
- Review Law and Board Regulation and identify issues and procedures, timelines
- Who Else to Contact
- Witness List
- Notice Communication w/ subject
- Develop Schematic/Timeline
- Review Physical Evidence
- Interview w/ witness 1
- Interview w/ witness 2
- Interview w/ witness 3
- Environmental Scan If Necessary
- Interview with Subject

Continue to modify
Ascertain the FACTS

- Saw
- Read
- Heard
- Overheard
- Heard About
- Smelled
- Tasted
- Sensed
MITIGATING FACTORS

1. **An employee’s length of service and disciplinary record.** When an arbitrator places a relatively isolated incident in the context of a long and unblemished work history, s/he may well conclude that the employee will respond positively to a reduced disciplinary sanction and correct the behavior or problem that contributed to the misconduct because they value their job and/or employer.

2. **Intentional, planned and premeditated misconduct is generally viewed more seriously than a momentary lapse in judgment, a spur of the moment reaction, a response to provocation or when an employee acts on an emotional impulse.**

3. **Arbitrators rarely have modified disciplinary sanctions when presented with evidence relating to the employee’s state of mind at the time of the infraction.** These have included domestic and emotional problems, alcohol and gambling addictions, but have modified when presented with evidence of physical pain or physical conditions, or a supervisor’s wrongful instructions or treatment.
4. Is the misconduct the result of an honest mistake or misunderstanding?

5. The employer's own conduct may be a pertinent factor. For example, was there a lax atmosphere at the workplace where similar misconduct was condoned by the employer? Have the employer's policies and work rules been consistently communicated, applied and enforced?

6. The employee's attitude and actions during an employer's investigation into alleged wrongdoing will invariably influence the disciplinary measure. Has the employee been honest and forthright? Did s/he advise the employer of the wrongdoing or was there an attempted cover up or unwarranted shifting of blame to another person?

7. What is the "rehabilitative potential" of the employee? In other words, what are the employee's future prospects in conforming to acceptable and expected standards of behavior?

ASCERTAIN THE FACTS
SUBJECT INTERVIEW

- Inform Mr. Dale you are conducting an investigation only as it specifically relates to a report into the District's concerns that he allegedly provided a student with his Skyward password in violation of the Electronic System User Agreement.
- Inform Mr. Dale you cannot assure confidentiality because any and all documents and/or interview notes may be subject to disclosure under the PRA or provided to the Union under its obligations as your representative.
- Direct Mr. Dale to cooperate and to be truthful with her response. Notify Mr. Dale that should the Issaquah School District now or in the future find that Mr. Dale was less than truthful about any information related to his responses; each separate incident could be subject to discipline up to and including termination.
- Caution Mr. Dale that the District respects his free speech rights but not to undertake actions that could be characterized as tampering with or undermining an ongoing investigation, including but not limited to speaking with any current or former employee or student of the District about the specific questions asked or answers provided and to do so could invite further investigation.
- Direct Mr. Dale to not engage in any behavior that could be characterized as retaliation, including but not limited to threats of or actual harm to a person, threats of or actual harm to a person's property, threats of or actual harm to a person's reputation, or communications which could result in future chilling of reporting [also, be sure to report any action that you believe is retaliatory such as an unwarranted change in working conditions].

These instructions represent those that were supplied to me verbally

Date
ASCERTAIN THE FACTS

WEINGARTEN

EMPLOYEE REPRESENTATION AT INVESTIGATIVE INTERVIEW

The rules regulating investigatory interviews in the labor context require a delicate balance between the employee’s need for assistance and council and the employer’s need to maintain safety and foster productivity in the workplace.

In Weingarten, the Court held that while section 7 of the National Labor Relations Act 4 ("NLRA") entitles an employee to union representation during an investigatory interview, such representation is limited by the employer’s right to conduct the interview.

SEEKING FURTHER INFORMATION

Offer a choice between writing down what happened, and talking about it. Writing is less confrontational, especially for young people who might regard any one-to-one interaction with a teacher as adversarial. Let’s have a look at the incident now. I need to understand your involvement.

- Can you help me fill in the details from your point of view?
- What happened?
- When and where did it take place?
- Who was involved?
- What part did you play?
- Was there more than one person involved on either side?
- Were there any witnesses?
- Did this take place more than once?
- Have you been involved in anything like this before?
- Why did it happen?
SEEKING FURTHER INFORMATION

DON'T ACCEPT STANDARD TECHNIQUES FOR SAVING FACE SUCH AS "I WAS ONLY MESSING", OR "WE WERE ALL DOING IT". BYPASS THESE COMMENTS AND ASK THE YOUNG PERSON TO TALK ABOUT THEIR SPECIFIC ROLE AT THE TIME. FOR EXAMPLE ASK:

- What did you actually say or do?
- How would someone else who witnessed the incident describe your actions?
- Would you do the same thing again, or act differently?
- Do you see anything wrong about it?
- How do you feel about the situation?
- Are you worried about what is going to happen?
- What do you think is fair in the situation?

THE INVESTIGATION—
DEALING WITH DEFENSIVE, EVASIVE AND OTHER UNCOOPERATIVE BEHAVIOR

IF THE INTERVIEWEE IS EVASIVE, THE INVESTIGATOR’S CONTRARY TECHNIQUE MAY BE TO BE FORCEFUL, NEUTRALIZING THE INTERVIEWEE’S FRIENDLY APPROACH AND LETTING HIM KNOW THIS IS A SERIOUS AFFAIR

HOW DO I RECONCILE?

SO YOU REMEMBER ____________, BUT NOT ____________?

STAY CALM AND FRIENDLY, USING HUMOR TO THE EXTENT POSSIBLE. IF THE HOSTILE INTERVIEWEE DOESN’T WALK OUT OF THE ROOM IN THE FIRST TEN MINUTES, SHE OR HE IS LIKELY TO CALM DOWN AND PROVIDE INFORMATION.

REPEAT THE SAME QUESTION UNTIL ANSWERED
Resolving Factual Disputes or Inconsistencies
Credibility vs. Memory

Resolving factual disputes or inconsistencies is one of the most challenging elements of any investigation and is accomplished in party by assessing witness credibility. Credibility is not merely a determination of whether a witness is being truthful. Credibility determinations include a consideration of a number of factors, which include without limitation:

- Ability to observe (goes to one's physical ability to see or hear an event);
- Ability to recall and consistency of recollection;
- Truthfulness (known propensity to be truthful or to engage in deceit or manipulation);
- Statements by other witnesses that test the credibility of the declaring witness;
- Incidents of self-contradiction, a witness makes a statement and then later contradicts that statement within the same conversation;
- Existence of bias, which is not synonymous with prejudice. Bias relates to an unusual interest in the outcome of the case;
- The existence of contemporaneous documentation prepared in good faith at or near the time of the event or incident; and
- An individual's conduct during the investigation, particularly conduct that appears to be aimed at obstructing or influencing the outcome of the process.

Contemporaneous Notes or Witnesses
Before that, when we were walking to the gym,
and he bought chips, then some lady came up to him and said, 'You can't buy anything at this time,' and he still took the chips so she grabbed him by the arm and took him to the office.
WAC 392-400-205

Definitions.

As used in this chapter the term:

(1) "Discipline" shall mean all forms of corrective action other than emergency removal from a class, subject, or activity, suspension, or expulsion and shall include the exclusion of a student from a class by a teacher or administrator for a period of time not exceeding the balance of the immediate class period: Provided that the student is in the custody of a school district employee for the balance of such period. Discipline shall also mean the exclusion of a student from any other type of activity conducted by or on behalf of a school district.

(2) "Suspension" shall mean a denial of attendance (other than for the balance of the immediate class period for "discipline" purposes) for any single subject or class, or for any full schedule of subjects or classes for a stated period of time. A suspension also may include a denial of admission to, or entry upon, real and personal property that is owned, leased, rented, or controlled by the school district.

(3) "Short-term suspension" shall mean a suspension for any portion of a calendar day up to and not exceeding ten consecutive school days.

(4) "Long-term suspension" shall mean a suspension that:
   (a) Exceeds ten school days and has an end date of not more than the length of an academic term, as defined by the school board, from the time of corrective action;
   (b) Cannot be imposed in such a manner that causes the student to lose academic grades or credit in excess of one semester or trimester during the same school year; and
   (c) Cannot be imposed beyond the school year in which the alleged misbehavior occurs.

(5) "Emergency expulsion" shall mean an emergency removal from school for up to, and not exceeding, ten consecutive school days from the student's current school placement by a school district superintendent or a designee of the superintendent. The superintendent or designee must have good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to other students or school staff or an immediate and continuing threat of substantial disruption of the educational process. An emergency expulsion must end or be converted to another form of corrective action within ten school days from the date of the emergency removal from school.

(6) "Expulsion" shall mean a denial of attendance for a period of time up to, but not longer than, the length of an academic term, as defined by the school board, from the time a student is removed from his or her current school placement by a school district superintendent or a designee of the superintendent. An expulsion also may include a denial of admission to, or entry upon, real and personal property that is owned, leased, rented, or controlled by the school district.
WAC 392-400-230

Persons authorized to impose discipline, suspension, expulsion, or emergency removal upon students.

(1) Each certificated teacher, each school administrator, each school bus driver, and any other school employee designated by the board of directors of a school district shall possess the authority to impose discipline upon a student for misconduct which violates rules of the school district established pursuant to WAC 392-400-225 and to impose an emergency removal from a class, subject, or activity upon a student pursuant to WAC 392-400-290.

(2) The board of directors of any school district may delegate to the superintendent and/or his or her designee(s) the authority to impose suspensions and expulsions upon students for misconduct which violates rules of the school district established pursuant to WAC 392-400-225. Each certificated teacher and each administrator shall possess the authority to recommend suspensions and expulsions for such misconduct.

(3) Any board of directors which chooses not to delegate the authority to impose suspensions and/or expulsions, nevertheless, shall be subject to the requirements set forth in this chapter when it imposes a suspension or expulsion.

(4) Notwithstanding any provision of this section to the contrary, each teacher is empowered to exclude any student who creates a disruption of the educational process in violation of the building disciplinary standards while under the teacher's immediate supervision from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day or until the principal or designee and teacher have conferred, whichever occurs first: Provided, That except in emergency circumstances as provided for in WAC 392-400-290, the teacher shall have first attempted one or more alternative forms of corrective action: Provided further, That in no event without the consent of the teacher shall an excluded student be returned during the balance of the particular class or activity period from which the student was initially excluded.

WAC 392-400-275

Expulsion—Conditions and limitations.

A student may be expelled for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions, the notice requirements set forth in WAC 392-400-280, and the hearing requirements set forth in WAC 392-400-285:

(1) School districts may not impose expulsion as a form of discretionary discipline as defined in WAC 392-400-205(11).

(2) A student may be excluded from a particular classroom or instructional or activity area for the period of suspension or expulsion, but the school district must provide an opportunity for a student to receive educational services during a period of suspension or expulsion.

(3) The nature and circumstances of the violation must reasonably warrant the harshness of expulsion.

(4) No student shall be expelled unless other forms of corrective action reasonably calculated to modify his or her conduct have failed or unless there is good reason to believe that other forms of corrective action would fail if employed.

(5) An expulsion may not be for an indefinite period of time. An expulsion may not exceed the length of an academic term, as defined by the school board, from the date of the corrective action unless:

(a) The school petitions the district superintendent for an extension; and

(b) The district superintendent authorizes the extension in compliance with the superintendent of public instruction's rules adopted for this purpose.

(6) The district shall make reasonable efforts to assist students in returning to an educational setting prior to, and no later than, the end date of the corrective action.


- **Limiting the use of suspension or expulsion**
  
  Under current state law, a student can be suspended for more than ten days or expelled only for serious types of behavior. Even for serious types of behavior, state law encourages districts to consider actions other than suspension or expulsion. The proposed rules encourage schools to use best practices to address behavior without removing students from the classroom. For example, schools would be prohibited from suspending or expelling a student for absences or tardiness. *WAC 392-400-430 through 392-400-445*

- **Clear definitions and procedures for types of discipline**
  
  The proposed rules set clearer definitions, limitations, and due process protections for different types of discipline. This includes suspensions, expulsions, emergency expulsions, and other exclusions from the classrooms. For example, the proposed rules clarify when an exclusion from class amounts to a suspension, which would require additional notice and due process for the student and the student’s parents. For each type of discipline, the rules clarify when parents must be notified and what procedures schools must follow. The revisions aim to ensure schools administer discipline appropriately, accurately report discipline data, and follow proper procedures. *WAC 392-400-110 through 392-400-530*

- **Educational services during a suspension or expulsion**
  
  Under current state law, school districts must provide students the opportunity to receive educational services during any suspension or expulsion. The proposed rules provide guidelines for how school districts provide educational services according to the student’s needs and the type of suspension or expulsion. *WAC 392-400-610*

- **Student reengagement**
  
  Under current state law, when a school district administers a suspension longer than ten days or an expulsion, the district must meet with the student and parents to develop a plan to support the student’s successful return to school. The proposed rules encourage a collaborative process between school personnel, the student, and parents to support the student and address the circumstances that led to the suspension or expulsion. The proposed rules include considerations school districts must assess to ensure the reengagement plan is culturally sensitive, culturally responsive, and tailored to students’ individual needs. *WAC 392-400-710*

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**PUBLIC RECORDS ACT**

2:30 P.M. – 3:00 P.M.
THE RECORDS LIFE CYCLE

WHO IS RESPONSIBLE FOR RETAINING THE E-MAIL?

- E-mail messages are often widely distributed to a number of various recipients

- If the holder of the record copy is not known or identified and aware of his/her responsibility, the district may find that no one retains the message or everyone retains the message. Neither of which is appropriate.

- The responsibility for retaining the record copy rests with the creator of the e-mail and/or attachment.
TRAINING REQUIREMENT FOR PUBLIC RECORD OFFICERS

Effective July 23, 2017, PRA and records retention training for public record officers must include training on retention, production, and disclosure of electronic documents, including updating and improving technology information systems. For further information, see the Office of the Attorney General’s Open Government Trainings Act supplemental information sheet, and ESHB 1594.

- Several new PRA-related assistance programs, funded through June 2020, will be available to local governments:
  - Attorney General consultation program to assist with best practices for managing public records requests
  - State Archives records retention training
  - State Archives competitive grant program to improve information technology systems for public record retention management, disclosure, and related training.

2017 LEGISLATIVE CHANGES TO RECORDS PROCEDURES

- New Five-Day Response Option: Requests for clarification of a request must be coupled with an estimated response time. If the requestor does not respond to the agency’s clarification request and the entire request is unclear, an agency need not further respond to the request. If portions of the request are clear, however, the agency must respond to those portions. See EHB 1595.

- Request for “All Records” and Bot Requests May Be Denied: An agency can deny a request for all or substantially all records of an agency not relating to a particular topic. An agency can also deny automatically generated (bot) requests received from the same requestor within a 24-hour period, if the bot requests cause excessive interference with the other essential functions of the agency. See EHB 1595.
“SOLE POSSESSION NOTES”

Are made by one person as an individual observation or recollection, are kept in the possession of the maker, and are only shared with a temporary substitute.

- This term has always been narrowly defined.
- Notes taken in conjunction with any other person are not sole possession notes (advisor’s notes, interview notes).
- Sharing these notes with another person, or placing them in an area where they can be viewed by others makes them “education records” and subject to FERPA.
- Emails can never be sole possession.
- Best advice: If you don’t want it reviewed, don’t write it down.

OPEN PUBLIC MEETINGS ACT

2:30 P.M. – 3:00 P.M.
All members of governing bodies must complete OPMA training within 90 days of taking the oath of office or assuming duties (RCW 42.30.205). A refresher OPMA training is also required every four years. For more information, see the Washington State Attorney General’s webpage on Open Government Training.


**EXECUTIVE SESSION SAMPLE LANGUAGE**

* Executive Session - The Board will be going into Executive Session pursuant to RCW 42.30.110 to consider legal matters. The Executive Session will last 20 minutes. Superintendent Ron Thiele, Jacob Kuper, ISD CFO, Chris Burton, Executive Director of Compliance and Legal Affairs, Josh Almy, Executive Director of Middle Schools, Paula Phelps, Executive Director of High Schools, and Charles Leitch, Attorney, are expected to attend. Executive Sessions are not open to the public and no action will be taken.

* Executive Session - The Board will be going into Executive Session pursuant to RCW 42.30.110(1)(g) for the purpose of discussing personnel matters. The Executive Session will last 15 minutes. Superintendent Ron Thiele, Emilie Hard, Executive Assistant of Teaching and Learning, Lisa Hechtman, Executive Director of Human Resources, Jacob Kuper, Chief Financial Officer, Chris Burton, Executive Director of Compliance and Legal Affairs, and Josh Almy, Executive Director of Middle Schools, will be in attendance. Executive Sessions are not open to the public and no action will be taken.
FERPA

2:30 p.m. – 3:00 p.m.

Divorce
§ 99.4 What are the rights of parents?

An educational agency or institution shall give full rights under the Act to either parent, unless the agency or institution has been provided with evidence that there is a court order, State statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights.

(Authority: 20 U.S.C. 1232g)

In the case of divorce or separation, a school district must provide access to both natural parents, custodial and non-custodial, unless there is a legally binding document that specifically removes that parent's FERPA rights.

In this context, a legally binding document is a court order or other legal paper that prohibits access to education record, or removes the parent's rights to have knowledge about his or her child's education.

Custody or other residential arrangements for a child do not, by themselves, affect the FERPA rights of the child's parents. One can best understand the FERPA position on parents' rights by separating the concept of custody from the concept of rights that FERPA gives parents. Custody, as a legal concept, establishes where a child will live, and often, the duties of the person(s) with whom the child lives. The FERPA, on the other hand, simply establishes the parents' right of access to and control of education record related to the child.
Here are the answers to questions frequently asked about the rights of non-custodial parents.

**Does the FERPA require a school to keep a parent informed of the child's progress even though the parent is divorced and living some distance from the child?** No. The FERPA does not require schools to inform parents of student progress whether the parents are divorced or not.

**Does the FERPA require a school to provide a parent copies of the record?** Generally, a school is not required to provide parents copies of the record. However, if the distance is great enough to make it impractical for the parent to visit the school to review the record, the school must make copies of the record and send them to the parent when that parent requests access to the record.

**Does the non-custodial parent have the right to be informed of and to attend teacher conferences?** The FERPA does not address conferences for the purpose of discussing student performance. Thus, a school has no obligation under this law to arrange a conference to accommodate the non-custodial parent. However, if records of conferences are maintained, the non-custodial parent has the right to see those records.

**Must the school provide the non-custodial parent the same general notices it provides the custodial parent?** No. General notices, lunch menus, PTA information, announcement of teacher conferences, school pictures, and other similar information, are not "education records" as defined by the FERPA. Therefore, schools are not legally required to provide them.

**Is the school required to honor a parent's "standing request" for access or copies?** No. The FERPA does not require a school to honor a standing request, but the school may do so if it wishes. If parents wish to obtain information from their child's record on a regular basis, they should submit requests periodically. The school must respond to each request within 45 days.

**How can a non-custodial parent get access to record?** Any parent may ask the school for the opportunity to review the record, either by going to where the record are kept or by requesting copies. The school may ask the parent for some identification.

**Can the parent with custody prevent the non-custodial parent from exercising his or her FERPA rights?** No. FERPA rights are given to both parents. The school may assume that a parent has these rights unless it has evidence to the contrary. The school does not need the permission of the custodial parent to give access to the non-custodial parent.
§ 99.31 Under what conditions is prior consent not required to disclose information?

The disclosure is to parents, as defined in § 99.3, of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986.
SUMMER ATHLETICS
3:00 P.M. – 3:30 P.M.

WIAA
13.6.0 The responsibility and liability of summer and/or out-of-season activities are those of the local school districts and sponsoring individual(s) or organizations.

- Employee?
- Agent of Non-Profit? (AAU, Booster Club, Select)
- Independent Contractor?
17.9.0 Sport Camps or Clinics -- Participants in a school-sponsored sport may attend camps or clinics.

17.9.1 If the participant’s coach is an organizer of a camp or clinic, the participant may attend only if it is offered during the summer or during the season in which that sport is offered.

17.9.2 Participation in a sport camp or clinic cannot be a requirement or condition of participation on a school team.

Philosophy of Summer Activities: Students may be afforded the opportunity to participate in activities during the summer if they so choose. Students should also be provided with an opportunity to participate with their families during the summer or simply take a break from sports prior to the start of fall sports turnouts...

17.10.1 Coaches may conduct activities during the summer on their own, as individuals.

17.10.2 School districts may authorize the use of facilities, school equipment (such as football helmets and shoulder pads, balls, etc), sport specific apparatus (such as batting cages, football sleds, nets, etc), facilities, and/or transportation for individuals and/or teams during the summer if approved by the local school board.

17.10.3 School districts may provide liability insurance for summer programs.

17.10.4 School districts may not allow for the use of school uniforms during the summer. Uniforms are considered to be the school issued contest uniform (practice or shooting shirts are not classified as school uniforms) and are defined in the adopted rule book for each specific sport.

17.10.5 Participation in summer programs cannot be a requirement or condition of participation on a school team.
BUT WAIT

• WAC 181-87-090

Improper remunerative conduct.

“Any deliberate act in the course of professional practice which requires or pressures students to purchase equipment, supplies, or services from the education practitioner in a private remunerative capacity is an act of unprofessional conduct.”