WASA WINTER CONFERENCE
LEGAL ISSUES:
FOCUSBING ON FINANCE
JANUARY 28, 2019 | FOUR POINTS BY SHERATON SEATTLE AIRPORT SOUTH
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
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
<table>
<thead>
<tr>
<th>Policy Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Law and Regulations</td>
</tr>
<tr>
<td>State Law and Regulations</td>
</tr>
<tr>
<td>Case Law (Stare Decisis)</td>
</tr>
<tr>
<td>Federal Agency Guidance (DOE, OCR, DOL)</td>
</tr>
<tr>
<td>State Agency Guidance (OSPI, SOS, SAO)</td>
</tr>
<tr>
<td>Collective Bargaining Agreements</td>
</tr>
<tr>
<td>Contracts/Materials (Vendor, Facility Use)</td>
</tr>
<tr>
<td>Board Governing Policies</td>
</tr>
<tr>
<td>District Regulations/Procedures</td>
</tr>
<tr>
<td>Job Description</td>
</tr>
<tr>
<td>Progressive Discipline</td>
</tr>
<tr>
<td>Letters of Direction</td>
</tr>
<tr>
<td>Widely Known Workplace Rules</td>
</tr>
<tr>
<td>Past Practice</td>
</tr>
<tr>
<td>Professional Service Organization principles</td>
</tr>
</tbody>
</table>
COLLECTIVE BARGAINING

11:00 A.M. – 12:00 P.M.
PREPARATION FOR/AND CONDUCTING BARGAINING

A STRATEGIC APPROACH
STRATEGIC BARGAINING ASSESSMENTS

1. Vision & Goals
2. Future/Emerging Issues
3. Supervisory Review
4. Contract Review
5. “HR/LR” Experience
STRATEGIC BARGAINING
SUPERVISORY REVIEW

Key Strands

- HR Processes (What’s not working)
- Teaching and Learning
  - Control & Use of Time
  - Operations
  - Direction & Compliance
- Leadership, Initiatives & Incentives
- Financial & Operational Flexibility

Focus on “Issues” and “Needs” not Contract!
STRATEGIC BARGAINING
CONTRACT REVIEW

• CBA “Cover-to-Cover”
  • Substance
  • Legal changes
  • Future scenarios
  • Interpretive
  • Editorial
  • Housekeeping
  • Flexibility
  • Timeliness
STRATEGIC BARGAINING
“HR/LR” EXPERIENCE

• Experience Review
  • Grievances
  • Performance and Misconduct Cases
  • Recruitment & Retention Indicators & Data
  • Professional Development Drivers
  • Unfair Labor Practices
STRATEGIC BARGAINING
PREPARING DISTRICT
POSITION

- Craft & Prioritize Bargaining Proposals
- Price Proposals
- Prioritize Desired Outcomes
- Define “Going-in” & “Fallback” Positions
- Obtain Superintendent & Board Parameters
- Develop Presentation Strategy
- Determine Best Sequence
GOOD FAITH - BAD FAITH
LEGAL CONSIDERATIONS
(ATLANTA HILTON, 117 LRRM 1224)

Consider:

- Delaying tactics
- Unreasonable demands
- Unilateral changes in mandatory subjects
- Efforts to bypass the union
- Failure to designate agent with sufficient authority
- Withdrawal of already agreed upon provisions
- Arbitrary scheduling of meetings
FAILURE TO BARGAIN IN GOOD FAITH

• Consider Totality

• Evidence must support the conclusion that:

  - Total bargaining conduct demonstrates a failure or refusal to bargain in good faith

  - An intention to frustrate or avoid an agreement (Surface Bargaining)

  - Failing to bargain from the “status quo”

DUTY TO PROVIDE INFORMATION

Applies to information that is relevant and useful to bargaining and to administration of the contract.

Specifically includes information relevant to comparable wages, hours and conditions.

Doesn’t require employer to create documents.
ISSUES 2019

• Principals

• School Employee Benefit Board (SEBB)

• Paraprofessionals
MANAGING UP ~ MANAGING DOWN
REDUCTION IN FORCE

12:30 P.M. – 1:15 P.M.
# Key Considerations

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>MAY 15</strong>&lt;br&gt;The critical legal deadline</td>
<td><strong>RETENTION CATEGORIES?</strong>&lt;br&gt;<strong>REDUCED EDUCATIONAL PROGRAM: BOARD ACTION? IF SO, BY WHEN? NECESSITY?</strong>&lt;br&gt;<strong>CONSIDER ATTRITION SAVINGS DUE TO RETIREMENTS, RESIGNATION</strong>&lt;br&gt;<strong>TEACHERS OR NON-TEACHERS ON SUPPLEMENTAL CONTRACTS, SUCH AS COACHING AND CO-CURRICULAR CONTRACTS</strong>&lt;br&gt;<strong>NO ALTERNATIVE WAYS EXIST TO ADDRESS THE DISTRICT’S ECONOMIC PROBLEMS</strong></td>
<td><strong>SERIORITY:</strong>&lt;br&gt;HIRE DATE? ORIENTATION DATE? START DATE?&lt;br&gt;<strong>UNDER RCW 28A.405.900 NEED NOT BE NONRENEWED (OR REHIRED) BECAUSE THEIR CONTRACTS EXPIRE</strong>&lt;br&gt;<strong>ALL FACTORS NEED TO BE CONSIDERED IN DECIDING THE EXTENT OF THE RIF?</strong>&lt;br&gt;<strong>COST SAVINGS MAY ALSO BE AVAILABLE THROUGH ELIMINATION OR REDUCTION OF PROGRAMS STAFFED BY</strong>&lt;br&gt;<strong>TEACHERS WHO HAVE THE RIGHT TO RETURN FROM LEAVE FOR THE FOLLOWING YEAR</strong>&lt;br&gt;<strong>SOME CONTRACTS OR POLICIES MAY REFERENCE OR EVEN LIMIT A RIF TO SPECIFIC CAUSES OF REDUCED FINANCES, LIKE LEVY LOSS, OR DECLINING EN.</strong></td>
</tr>
</tbody>
</table>
FUNDRAISING

1:15 P.M. – 2:00 P.M.
INSTITUTIONAL CONTROL
(OVERSIGHT, MONITOR, SUPERVISE)

• The purpose of the audit was to review the hiring, onboarding, and supervision processes to determine whether adequate internal controls are in place, and determine if ________ athletics complies with District policies, best practices, and procedures and state law.
ALIGN

- Job Description
- Interview Question
- Onboarding/Annual Training
- Launch School Year
- Evaluation
JOB DESCRIPTION

- Supervises fundraising activities, cash handling, and required reconciliation procedures

Versus

- Supervises fundraising activities consistent with District policy 3205 and 6102 and State law, expected cash handling practices, and required reconciliation procedures
ASB Advisor’s Agreement

As an Advisor or Coach of ____________, I accept that I have a responsibility to:

- Write, implement and/or execute all elements of the club constitution.
- Provide supervision of students immediately before, during, and after all school sponsored activities.
- Fundraiser forms will be completed for all fundraisers with appropriate approvals and reconciliations. Fundraisers will follow District Regulations Student Fundraising Activities #3530 and 3530P, Student Fundraising for Charitable Purposes #3540 and 3540P. www.issaquah.wednet.edu/district/regulations
- Plan events that minimize conflicts with other district and building events.
- Develop an annual budget plan including anticipated revenue and expenditures.
- Inventory records be accurate and the property kept in a secure location at all times.
- ASB purchases have timely approvals by staff and students on the appropriate form.
- Follow proper procedures for cash handling and purchasing.
- All cash reconciliation forms have two signatures before turning into the bookkeeper for verification.
- Follow proper procedures for fundraising, including use of required forms and timely submission to the ASB Bookkeeper.
- All ASB funds collected will be turned in immediately to the Bookkeeper for deposit to meet the 24 hour deposit rule as required in RCW 43.08.240. Money collected will never be taken home, stored in a classroom and/or deposited into a non-Issaquah School District bank account.

I acknowledge receipt of the “ASB Resource Guide” and I will comply with District Regulations & State Requirements.

<table>
<thead>
<tr>
<th>Advisor/Coach Signature</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>________________________</td>
<td>_____</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Printed Name</th>
<th>Club/Sport</th>
</tr>
</thead>
<tbody>
<tr>
<td>____________</td>
<td>__________</td>
</tr>
</tbody>
</table>
CURRENT ISSUES #1
THIRD PARTY FUND COLLECTORS

• **Prohibited Activities:** Contracting with crowd sourcing sites such as: Snap!Raise, Go fund me, Indiegogo, Donors Choose, and Kickstarter, etc. where cash or non-cash donations are made through third-party vendors, and where the third-party vendors receive a percentage or amount of donation as payment for services is prohibited unless the site meets requirements and is pre-approved through the District Finance Office.
By Sandy Ringer
The Seattle Times

said he accepts responsibility after money from football team fundraisers was "stolen or lost", but denies taking any money for personal gain.

has resigned his coaching and teaching positions following an investigation into missing money from two team fundraisers that could have totaled as much as $20,000, according to administrators.

disputes the figure and any perception that he took money for personal gain. He estimates less than $10,000 was unaccounted for.

school district athletic director, contacted The Times Wednesday afternoon to announce the coaching vacancy and said had accepted responsibility for money missing from school’s student body account.

“He admitted that funds he collected from ASB fundraisers are missing and unaccounted for and he admitted that he is responsible for those funds and we don’t have them back,”
Procedures

Student Fund Raising for Charitable Purposes – 3540P

A. Charitable fundraising can be defined as an official, organized effort by student groups to raise money for donation to a specific group, individual or cause.

B. Each charitable fundraiser must be pre-approved by the building principal.
   1. Approval of the type of activity must be documented on the Fundraising Activity Form.
   2. The intended beneficiary must be identified on the fundraising Activity Form at the time of pre-approval.
   3. The principal will take reasonable steps to insure that the proposed beneficiary is a legitimate charitable organization or cause.

C. The fundraiser must follow all Issaquah School District guidelines for fundraising.
   1. Money, inventory and other assets must be secured.
   2. Appropriate record keeping forms must be used to document details of the event.
   3. Money must be deposited according to District guidelines.
   4. A financial summary must be completed at the end of the event.
While we find no reason districts could not keep note of how much money each student raised to benefit that student’s own project, we do not believe it is appropriate for districts to hold the funds in individual accounts or give the student any ownership “right” to the funds.

All ASB funds, unless “non-associated” funds, must be deposited into the official ASB fund and held as public funds of the district. However, a district could establish policies that allow individual students to benefit from personal efforts in raising money for a certain activity. The policy must show the use is a legitimate school purpose and that the spending is in accordance with the board-approved budget.

School districts may establish programs and activities to raise money for an ASB fund. ASB funds may be spent to “defray the costs of optional noncredit extracurricular events of such a cultural, social, recreational, or athletic nature, or to otherwise support the activities and programs of associated student bodies” (RCW 28A.325.010).

Alternatively, students can individually raise funds through “non-associated” student body programs to use for scholarship, student exchange, and/or charitable purposes (RCW 28A.325.030(2)).

All ASB money must be deposited into a district’s established ASB fund. This fund must be budgeted by the associated student body, subject to approval by the School Board (RCW 28A.325.030(1)(c)). No payments can be made except as provided in the approved budget (WAC 392-136-125(1)). In contrast, non-ASB funds may be used as the group raising them determines (RCW 28A.325.030(2)).

Unless they are “non-associated” funds, ASB money raised at the direction or under the supervision of the school district, are public funds belonging to the school district, not private funds that belong to a club or to individual students (Informal Opinion of the Attorney General’s Office, dated February 18, 1977.) This means ASB funds may be spent only for purposes previously budgeted by the ASB and on legitimate school district activities.

In accordance with Office of Superintendent of Public Instruction rules, each school district must have a Board-approved policy covering how students go about raising ASB funds (WAC 392-136-013(1)(b)).
BOOSTER CLUBS

2:15 P.M. – 3:00 P.M.
• **Policy and or administrative Regulation 4120**

The following guidelines are provided for use by PTA/PTSA and/or Booster Clubs which are involved in fundraising activities.

Local PTAs/PTSAs and Booster Clubs must be incorporated as nonprofit organizations and encouraged to become a recognized 501 (c) 3 or 501 (c) 4 with the Internal Revenue Service. Given such incorporation the District recognizes the local school PTAs/PTSAs and the official parent Booster Clubs of the district. All other related Booster Clubs and special interest organizations must come under the umbrella of the recognized high school Booster Clubs.
• Although these groups may not be directly governed by the school district, they should be recognized by the local school board as “real” organizations. Oftentimes, there is a main PTA/PTO/Booster group that is a recognized 501(c)(3) and other smaller support groups should fall under their guidelines.

• **School Support Groups must also follow local school district policies/regulations and procedures, especially when renting district facilities, gifting donations, or involving student groups.**

• **Purchasing of a liability insurance policy is highly recommended, and may be required by school board policy.**

• **School Support Groups need to be aware of equity issues when donating money and/or equipment to the school’s athletic teams. Title IX issues for equity come into play when donations favor one segment of athletics over another, i.e. boy’s sports over girl’s sports.**
SCHOOL SUPPORT ORGANIZATIONS

- **Title IX requires the District to ensure that boys’ and girls’ athletic programs receive equivalent benefits and opportunities.**
- **Title IX compliance is measured on a program-wide, not sport-specific basis, although significant disparities between individual sports may indicate a program-wide problem.**
- **The District’s Title IX obligations apply to all funds distributed to its athletic programs, regardless of the source.**
- **The District’s lack of direct oversight or control over the source and distribution of funds is irrelevant to its obligations under Title IX.**
- **Require that all booster club board presidents, athletic directors, and coaches participate in periodic trainings regarding fundraising, equal opportunity, and the District’s obligations under Title IX.**
- **Consider consultation with Title IX Compliance Officer.** Offer and/or require the booster clubs to meet regularly with the Title IX compliance officer.
- **Consider requiring each booster club operating for the benefit of a District school or team to provide a regular accounting of the funds distributed to the school and/or team.**
- **Consider having the Athletic Directors remind coaching staff of their conflict of interest obligations.**
- **Consider convening an advisory committee comprised of school officials, athletic directors, coaches, parents, and participants from each booster club to evaluate the District’s fundraising policies.**
SUMMER ATHLETICS
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.”
SUMMER ACTIVITY – BLIND SPOTS

- What are they doing and where are they doing it at?
- Board authorization
- Incoming 9th graders
- Not enough student athletes at a given event
- Summer concession stands
- Transportation Contracts
- Coach conduct

Student conduct jurisdiction - The following rules apply to all student-athletes participating in interscholastic activities and specific extra-curricular activities. These rules will apply to all student-athletes, cheer, dance, and drill members, at all times throughout the school year, including in season, out of season, and between seasons. The school year is defined as beginning with fall tryouts through the last day of school and will include any school-sponsored summer activities or any private activity/camp that disrupts or impacts the school team or the school educational process.
RECORDS RETENTION

3:00 P.M. – 3:30 P.M.