

# Policy & Legal News

HELPING SCHOOL DISTRICTS TRANSLATE LAW INTO ACTION

## Each and Every Student

**ESSA UNPACKED**



WSSDA

FEBRUARY 2018

WASHINGTON STATE SCHOOL  
DIRECTORS' ASSOCIATION

**As these dark winter days pass, I remember the words of philosopher, author, and journalist Albert Camus, “In the depth of winter, I finally learned that within me there lay an invincible summer.”**

I think I have learned this too, perhaps not with absolute finality, but with at least some regularity. My shorthand for this principle is Bring Your Own Summer. If the start of 2018 has been as demanding for you as for me, then we could all use some internal light, warmth, and buoyancy to keep us focused on our vision with positive persistence.

At WSSDA, our vision is all school directors effectively governing to ensure each and every student has what they need to be successful within our state’s public education system. I have been particularly mindful of this vision while shepherding this issue of *Policy & Legal News*, which provides information and a conversion toolkit to help your district transition its policy manual to reflect the Every Student Succeeds Act (ESSA).

Although the process varies board to board, I imagine that when WSSDA issues several revised policies and procedures, as it does here, there is important work for board members to do. I expect that the district superintendent presents the proposed policy revisions to you in a board meeting, and board members begin by reading and discussing the policies and the revisions. Admittedly, this is potentially tedious and extensive work. Nonetheless, it is also important work, fundamental to your leadership role for districts. Your policy manual is not only a governing tool; it also constitutes comprehensive information for community members, staff, and others that reflects the philosophy of the district, and how it operates. This is why the first reading is a time to consider whether the board wishes to invite staff or community members to prepare an oral or written statement about a policy or proposed revision for the second reading. As you well know, unless the board deems it in the district’s best interest to take immediate action, the final vote for adoption does not occur until a second reading at the next board meeting.

The ESSA conversion toolkit touches upon several policies and procedures. However, not every proposed revision requires a board’s review. Specifically, non-substantive

editorial revisions and changes in administrative, legal, and/or cross references do not need board approval.

In the toolkit, we paid extra attention to distinguishing the types of revisions necessary, to help you plan and streamline the review and adoption process. Generally, boards do not need to review or approve the implementing procedures. However, the board maintains oversight of the procedures and should ensure that the procedures are consistent with the board’s policies and intentions. When the procedures address complex or controversial topics, we recommend that the board and superintendent always consult together.

An example of when it is both appropriate and crucial for the board to take an active role is **Procedure 3231P, Student Records**. You will find the revised procedure and more information in the Other Updates section of this issue of *Policy & Legal News*. Although the revision of model procedure 3231 is minimal, the impact could have far-reaching consequences. The revision clarifies that districts have discretion when designating what types of information they will consider “directory information,” which is information that can be released without prior parent permission, unless the parent has specifically opted out. The board’s careful and thoughtful consideration of each and every type of information it will designate as directory information is important because it has the potential to make that information available not only to news reporters, but also to stalkers, child predators, non-custodial parents, and federal authorities. Sometimes small revisions can have big impact. This is never truer than when a revision increases the board’s discretion.

Finally, knowing that your leadership role as board members is not easy, I’d like to thank you for all you do. WSSDA leads in policy development (including the ongoing process of identifying revisions) to promote safe, secure, and respectful learning environments for each and every student. I hope this ESSA revision toolkit is helpful for your review and consideration of policies and procedures. Don’t forget to Bring Your Own Summer to the board meeting.

Best,  
Abigail Westbrook,  
J.D., *Editor*





## ★ IN THIS ISSUE

FEBRUARY 2018

From the Editor.....	2
Policy revisions .....	3
Every Student Succeeds Act .....	4
Other updates .....	8
Special thanks .....	10

## ★ UPDATES

The following WSSDA model policies have been revised. For your convenience, updated marked-up documents are included with this issue of *Policy & Legal News*.

### REVISED

CLASSIFICATION: PRIORITY

- **Policy and Procedure 2104/2104P, Federal and/or State Funded Special Instructional Programs**
- **Policy and Procedure 3232/3232P, Parent and Student Rights in Administration of Surveys, Analysis, or Evaluations**
- **Policy 2000, Student Learning Goals**
- **Policy 3244, Prohibition of Corporal Punishment**
- **Policy 6535, Student Insurance**

CLASSIFICATION: ESSENTIAL

- **Policy 2108, Learning Assistance Program (previously named Remediation Programs)**
- **Policy 4130, Title I Parental Involvement**
- **Policy 5050, Contracts**
- **Procedure 6100P, Revenues from Local, State, and Federal Resources**
- **Procedure 3231P, Student Records**

CLASSIFICATION: DISCRETIONARY

- **Policy 1111, Oath of Office**
- **Policy and Procedure 4200/4200P, Safe and Orderly Learning Environment**

### DELETED

- **Procedure 2108, Remediation Programs**
- **Procedure 4130, Title I Parent Involvement**

### TABLE OF CONTENTS

- **1000 Series**
- **2000 Series**
- **3000 Series**
- **4000 Series**
- **5000 Series**
- **6000 Series**

As stated in WSSDA Policy 1310, "Non-substantive editorial revisions and changes in administrative, legal and/or cross references need not be approved by the board."

# ESSA Unpacked

What changed or did not change regarding accountability, funding, and teacher qualifications?

**In December 2015, Congress passed the Every Student Succeeds Act (ESSA), reauthorizing the Elementary and Secondary Education Act (ESEA), and replacing the 2002 No Child Left Behind Act (NCLB).**

Although NCLB had been designed to address education gaps across the nation, it had become much criticized for being overly punitive and giving the federal government too much control. In light of NCLB's shortcomings, ESSA was a welcomed change. ESSA increased state autonomy and decision-making, letting each state determine the measures needed to hold its districts and schools accountable and how to improve education for every student.

The first steps for implementing ESSA were that each state would develop its own blueprint or detailed plan to satisfy the requirements, submit that detailed plan to the U.S. Department of Education by either May or September 2017, and obtain the Department of Education's approval. In Washington state, our consolidated plan to implement ESSA is the result of nearly two years of work by stakeholders statewide. To create the consolidated plan, the Office of

Superintendent of Public Instruction (OSPI) organized hundreds of stakeholders into twelve workgroups, including members from the business community, parent organizations, the Legislature, and education. In September 2017, OSPI submitted Washington's consolidated plan to the Department of Education and received final approval on January 16, 2018, after making some small revisions.

What changed or did not change regarding accountability, funding, and teacher qualifications?

ESSA does not change the requirement for students to take statewide assessments in grades 3-8, and again in 10th grade. Nor does ESSA change the requirement that states use challenging academic content. However, ESSA does not set a standard for content, nor does it encourage a specific standard, such as the common core. Additionally, ESSA does not dictate a system for federal

accountability, but allows (within limits) each state to customize its own accountability framework, including allowing states to determine how to judge student performance and how to hold teachers accountable.

Washington's accountability framework differs from the system in place under NCLB in that it evaluates education gaps between student groups rather than between schools, and it uses more comprehensive variables. Washington's variables now evaluate attendance, whether 9th graders are "on track," dual credit opportunities, English learner progress, statewide student assessments, and graduation rates. Although the framework still includes statewide assessments and school graduation rates, both variables are de-emphasized. For graduation rates, the framework focuses on closing graduation rate gaps by subgroup rather than focusing on

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school-wide rates. Additionally, the accountability framework recognizes that a longer graduation timeframe is appropriate for some students, such as students with an individualized education program (IEP), and avoids penalizing schools that graduate a relatively high percentage of students in the extended timeframe by including an upward adjustment for such schools. OSPI will introduce an index of the accountability framework in spring of 2018. The purpose of using these comprehensive variables is to obtain a better, truer measurement of school quality and student performance. The purpose of obtaining a better measurement of performance is to enable better targeting for funding and supports to eliminate opportunity gaps and increase equity.

Speaking of funding, another way that ESSA differs from NCLB is that ESSA permits more flexibility in the funding of federal education programs for at-risk students. To make use of this flexibility, Washington will use a consolidated application for the federal programs, allowing districts to take a “big-picture approach” to funding student needs. The goal being that schools with at-risk students will receive additional federal support, whether the risk is from poverty, homelessness, incarceration, migratory status, or other factors.

A third key change under ESSA involves teacher qualifications. ESSA eliminates the Highly Qualified Teacher requirement that existed in NCLB and districts are no longer required to identify and document that status for teachers hired after December 10, 2015. However, Washington will still require that teachers hired before December 10, 2015 for the 2015-2016 school year be highly qualified and that special education teachers must have a bachelor’s degree and either be certified in special education or hold a special education license in Washington.

Additionally, ESSA requires that all Title I, Part A paraeducators meet state certification and licensure requirements. Until Washington adopts its own paraeducator certification and

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licensure requirements, OSPI will maintain the paraeducator qualifications that were required under NCLB. Please see more on this topic below regarding **Policy 5050 – Contracts**.

What is the impact on Model Policies?

ESSA has broad reach on education. Indeed, it touches several Titles within the United States Code and several model policies. However, the amount of impact at the level of policy varies considerably. Some policies need significant modification while others require only housekeeping changes, e.g., changing NCLB to ESSA. Below, we walk through revisions in numerical order, not order of impact or importance. Remember, policies with non-substantive revisions do not need board approval. See WSSDA Policy 1310.

Based on Washington’s new accountability framework, WSSDA fully anticipates that we will be revising **Policy 2004 - Accountability Goals**. However, we must defer those revisions pending the Washington State Board of Education’s adoption of its proposed rules regarding these issues. This conservative approach protects districts against the possibility of the proposed rules changing before the rules process is completed. As we go to press, our State Board of Education anticipates adopting those rules in May 2018. When the rules

process is completed and binding, WSSDA will promptly revise this policy.

WSSDA reviewed **Policy and Procedure 2104 - Federal/State Funded Special Instructional Programs** making minor revisions. These revisions were necessary for clarity and housekeeping changes to reflect ESSA. However, neither the policy nor the procedure needed substantive changes. Therefore, board approval of these revisions is not necessary.

Additionally, WSSDA reviewed, revised, and renamed the former **2108 - Remediation Programs**, now titled **2108 - Learning Assistance Program**. This policy had not been updated since 2005, and needed substantive revision to reflect not only ESSA, but also changes to Chapter 392-162 WAC. After revising this essential policy to include the necessary information, there was no need to maintain an associated procedure, as that information would be either redundant or superfluous. Consequently, we have deleted the associated procedure.

Although Washington’s consolidated ESSA plan only recently received final approval, portions of the ESSA have already been in effect. For example, a notable aim of

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ESSA is to stabilize the educational environment for students who are in the foster care system or experiencing homelessness. Provisions to that effect have already amended the McKinney-Vento Act and Title I, Part A. Fortunately, WSSDA responded to those changes as they happened. In November 2016, WSSDA significantly updated both the policy and procedure for **3115, Homeless Students - Enrollment Rights and Services** and simultaneously created the **Policy and Procedure 3116, Students in Foster Care**. Further, WSSDA updated these policies and procedures again in July 2017, after our Legislature passed additional requirements. Be assured we have reviewed these policies and procedures and determined that they remain current and do not need further revision at this time.

WSSDA has also reviewed and revised **Policy and Procedure 3232 - Parent & Student Rights in Administration of Surveys, Analysis, or Evaluations**. These revisions address both clarity and function. The policy sets out the steps districts must take to protect student privacy during the administration of surveys and affirms that parents and adult students have the opportunity to opt out of

participating in surveys and similar activities involving the collection, disclosure, or use of student personal information. Although the revisions do not constitute a substantive change of content, the volume of revision is such that the board should review this policy and procedure.

ESSA places a strong emphasis on family and community engagement and WSSDA has revised **Policy 4130 - Title I Parental Involvement** accordingly. This policy also includes a separate embedded policy for dissemination to schools. This means that in addition to a board's review and adoption of this revised policy, districts need to provide the embedded school policy to each school within their district that receives Title I, Part A funding. Additionally, because OSPI's consolidated review must ensure that districts have updated this policy and the associated school policy to reflect the ESSA language, we recommend that your board prioritize its review of these revisions and complete the adoption process as soon as possible. As part of WSSDA's review, we realized that information that was previously contained in the associated **Procedure 4130, Title I Parental Involvement** needed to be part of the revised policy. After including

the necessary information in the policy, maintaining an associated procedure with the same or additional information was either redundant or superfluous, and WSSDA has deleted the procedure.

WSSDA has reviewed and made minor house-keeping revisions to **Policy 4200 - Safe and Orderly Learning Environment**. These do not need board review. Additionally WSSDA reviewed and made additional revisions to the associated **Procedure 4200P, Safe and Orderly Learning Environment**. The revisions to the procedure included deleting provisions that are not required. For example, formerly, the procedure instructed districts to adopt an "appeal procedure" for circumstances when the district withheld or limited visits at school, but nothing requires districts to develop such a provision. Similarly, formerly, the procedure instructed districts to develop written guidelines regarding the "rights" of noncustodial parents. However, there is no legal requirement for districts to develop such written guidelines and court orders serve as the basis of any difference of parental rights. As always, board members should be mindful that a school board could always elect to add provisions such as these to its policies and

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“ **ESSA does not dictate the standard of qualifications for teachers and paraeducators. Instead, it requires states to establish standards for paraprofessionals working in Title I schools or programs.** ”



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procedures to meet the needs of the district.

As noted in the overview above, ESSA does not dictate the standard of qualifications for teachers and paraeducators. Instead, it requires states to establish standards for paraprofessionals working in Title I schools or programs. You will see these and other significant revisions reflected in **Policy 5050 – Contracts**. Additionally, the Washington Legislature recently passed ESHB 1115 (Chapter 28A.413 RCW), which establishes qualifications for all paraeducators, not just those working in Title I schools or programs. Paraeducators must meet those qualifications beginning September 1, 2018. WSSDA revised this policy to incorporate all of these changes of law as follows: (1) we deleted the Highly Qualified Teacher language; (2) we revised the provisions regarding paraeducators so that they apply to all paraeducators, not just those who work as Title I employees; and (3) we revised the qualifications for paraeducators to reflect the requirements of ESHB 1115. Even though paraeducators do not have to meet ESHB 1115’s qualifications until September 1, 2018, we included those revisions now for two reasons. First, OSPI will continue to require that paraeducators meet the same standard of the former NCLB until our state’s standards go into effect. As revised, this policy satisfies both the old law and the new one. Second, it is pragmatic for

districts to anticipate this change now and not need to make further revision to this policy in preparation for the 2018-2019 school year.

You might recall the above overview of ESSA noting the more flexible use of revenues and funding under ESSA. Despite this important change, **6100P, Revenues from Local, State, and Federal Sources** needed only minor housekeeping revisions to be current. However, our review did note a section in this procedure regarding Title I parent and family engagement, which we have deleted, as there is a separate policy (see **4130 - Title I Parental Involvement** above) devoted to this subject.

On a final note, keeping policy current is a never-ending process. As federal guidance, federal and state rulemaking, and possible litigation continue, we can surmise that ESSA might still require further policy updates and new policies. As always, WSSDA will be monitoring the situation closely and carefully. Please do not hesitate to contact us with questions or concerns.

### Do these policies need board review at this time?

2004	Accountability Goals	NO
2104/2104P	Fed/State Funded Special Instructional Programs	NO
2108/2108P	Learning Assistance Program	YES
3115/3115P	Homeless Students	YES
3116/3116P	Students in Foster Care	NO
3232/3232P	Parent and Student Rights	YES
4130/4130P	Title I Parental Involvement	YES
4200/4200P	Safe and Orderly Learning Environment	YES
5050	Contracts	YES
6100P	Revenues	NO

# Policy Updates

## POLICY 1111 – OATH OF OFFICE

To avoid confusion, WSSDA has revised the policy for Oath of Office to specify that newly appointed board members and newly re-elected board members must take or re-take the oath of office. Previously, the policy stated, “each new director will take an oath or affirmation [...]” and WSSDA learned that some districts were unsure if re-elected board members needed to re-take the oath.

## POLICY 2000 – STUDENT LEARNING GOALS

WSSDA has revised the policy for Student Learning Goals to mirror the verbiage in RCW 28A.150.210 more closely. Previously, the policy listed four student learning goals, using nearly identical language as the Washington law, except for omitting the bolded words in the following two goals:

Read with comprehension, write effectively, and communicate successfully in a variety of ways and settings **and with a variety of audiences**

Think analytically, logically, and creatively, and to integrate **technology literacy and fluency as well as** different experiences and knowledge to form reasoned judgments and solve problems;

Because the omission caused confusion and the full language was beneficial, WSSDA revised the policy by adding the omitted language and making other minor edits to improve clarity.

## PROCEDURE 3231P, STUDENT RECORDS

WSSDA has revised Section E (1) of **3231P** to clarify that districts have discretion when designating what types of information they will consider “directory information.” Directory information is an exception to the prior written parental consent requirement for release of a minor’s education records. The primary purpose of designating some information from student records as directory information is to allow districts to include that information in school publications such as the honor roll, graduation programs, the yearbook, and sports activity sheets. A key part of the concept behind directory information is that the information is not considered “harmful or invasive of privacy” so it can be released without prior parent permission, unless the parent has specifically advised the school district to the contrary. Directory information often includes items such as a student’s name, dates of attendance, participation in activities and sports, height and weight for members of athletic teams, awards received, etc.

Formerly, the procedure stated, “Directory information is defined as ...” and included a list of several types of information, such as the examples just given. However, the procedure failed to clarify that



### KEEP IN MIND

**School boards can designate directory information taking an approach that balances safety and expediency – having different directory information for elementary students than for secondary students, for example.**



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districts may, but do not have to, include all of the types of information on the list. The board’s careful and thoughtful consideration of each and every type of information it will designate as directory information is of importance. The information designated as directory information can have far-reaching consequences because it has the potential to make that information available not only to news reporters, but also to stalkers, child predators, non-custodial parents, and federal authorities. WSSDA urges all school boards to schedule a careful review of this revised procedure and then make a thoughtful designation of what information will be directory information.

**“ The information designated as directory information can have far-reaching consequences because it has the potential to make that information available not only to news reporters, but also to stalkers, child predators, non-custodial parents, and federal authorities. ”**

**POLICY 3244 – PROHIBITION OF CORPORAL PUNISHMENT**

WSSDA has revised the policy prohibiting corporal punishment to remove a reference to aversive therapy and physical restraint as part of a behavior management program in a student’s individualized education program (IEP). Washington law has prohibited aversive intervention and the use of physical restraint in an IEP since 2015. Additionally, the policy includes minimal revisions for punctuation and clarity.

**POLICY 6535 – STUDENT INSURANCE**

There are several revisions to the policy for student insurance. One important revision is that instead of stating districts “will” offer student insurance, the policy now states that districts “may” offer student insurance. Another revision opens the number of insurance sources a school board can consider from a single source to as many sources as is appropriate. Additionally, the revisions allow districts to choose an insurance provider who does not have an agent located in Washington, provided that the provider is knowledgeable and licensed to do business in Washington.

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#### WSSDA DIRECTORY

General Information . . . . . 360-493-9231  
Association Services . . . . . 360-252-3002  
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E-Mail . . . . . mail@wssda.org

#### VISION

All Washington School Directors effectively govern to ensure each and every student has what they need to be successful within our state's public education system.


#### MISSION

WSSDA builds leaders by empowering its members with tools, knowledge and skills to govern with excellence and advocate for public education.

#### BELIEFS

WSSDA believes:

- Public education is the foundation to the creation of our citizenry, and locally elected school boards are the foundation to the success of public education.
- High-functioning, locally elected school boards are essential to create the foundation for successfully impacting the learning, development and achievement of each and every student.
- Ethical, effective and knowledgeable school directors are essential for quality public schools.
- Focusing on and addressing educational equity is paramount to assure the achievement of each and every student.
- Public school directors are best served through an innovative, responsive and flexible organization which provides exceptional leadership, professional learning and services in governance, policy, and advocacy.

  
**WSSDA**  
WASHINGTON STATE SCHOOL  
DIRECTORS' ASSOCIATION  
(800) 562-8927  
221 College St. NE, Olympia, WA 98516  
www.wssda.org

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