Policy & Legal News

Purchasing and public works

+ Audits on your district

SCHOOL-BASED
Threat Assessment

WSSDA

Policy Classifications

ESSENTIAL
• Policy is required by state or federal law; or
• A specific program requires a policy in order to receive special funding.

ENCOURAGED
• While not required by law, policy is intended to reflect the spirit of existing state or federal law thus inuring districts to potential litigation;
• While not required by law, policy has potential to benefit the health, safety, and/or welfare of students, employees, directors, and/or the local community.

DISCRETIONARY
• Policy addresses an action likely deemed important by the board; or
• Policy would likely be deemed appropriate due to special circumstances of the board; or
• Policy communicates district philosophy that a board may want to promote to employees and/or the community.

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."

It is just past the winter solstice – the shortest day of the year and the first day of winter. The sun rises late and makes a low arc across the sky. Even at noon, the shadows are long. Then it is sunset already. From the Neolithic to present times, the dwindling light is unsettling. The word "solstice" derives from the Latin scientific term *solstitium*, comprised of *sol*, meaning "sun," and *sistere*, meaning "to make stand." The name reflects that the sun's position in the sky at noon appears to stand still for a few days near the solstice. After the apparent standstill, the arc of light and length of day start to increase, slowly mind you, a little each day. Nonetheless, after threatening to disappear, the sun returns and light and hope inch back.

This edition of *Policy & Legal News* focuses on the **school-based threat assessment program**, which districts are required to have in place by the beginning of the 2020-2021 school year. The reason for this required program – the persistence of targeted school-based violence – is frankly terrifying. Images of frightened and injured students fleeing school grounds have imprinted on our consciousness. Sometimes, like the light dwindling from the sky at the winter solstice, the prospects for the return of safe schools appear bleak. And yet, the data show that there are **actionable steps** we can take to help prevent targeted school violence. These steps are what comprise a school-based threat assessment program.

As your board prepares to review and adopt a threat assessment policy, your vision is crucial. As you'll read in the threat assessment article, many assumptions about targeted school violence are false. There is no profile. Students who were male, female, high-achieving, poor-performing, socially isolated, or popular have all been perpetrators of targeted school violence. **Assessing whether a student poses a threat** requires a bias-free analytical approach. Further, a district culture and climate of respect, trust, and social and emotional support are essential to threat assessment. This will require resources, but a threat assessment program provides hope.

Thank you to everyone who attended WSSDA's 2019 Law Conference. Not only was it a solid day of learning, it's also important to me that I connect with you personally. If I did not have the chance to say it in person, thank you for serving on your school board. Your leadership is so important. **Let's all light a candle** and encourage the light and hope to inch back.

Wishing you happy holidays and a bright new year!
Abigail Westbrook, J.D.,
Editor

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★ UPDATES

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

ESSENTIAL
- **3225 / 3225P**–School-Based Threat Assessment
- **4314 / 4314P**–Notification of Threats of Violence or Harm
- **6220P**–Bid or Request for Proposal Requirements

ENCOURAGED
- **None**

DISCRETIONARY
- **None**

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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."

Model Policy /
Procedure
3225
School-Based Threat
Assessment

Model Policy /
Procedure
4314
Notification of Threats
of Violence or Harm

School-Based **threat assessment**

What should happen when a district learns of a potential or alleged threat from a student? For example:

• A student posts an image on social media, wearing a black trench coat and aiming what appears to be an assault weapon;

• A teacher reports that one of her students wrote a story about hurting his classmates because they tease him;

• Several students report that another student warned them not to eat lunch in the cafeteria next Tuesday because something very bad was going to happen.

Currently, your district might not have a plan or a process for how to react, but by the start of the 2020-2021 school year, your district will have established a school-based threat assessment program to assess potential threats methodically and when appropriate intervene.

Background and basis
You might remember hearing about House Bill (HB) 1216 – *Relating to Non-Firearm Measures to Increase School Safety and Student Well-being*, which our Legislature passed during the 2019 session. HB 1216 has several important components, one of which is to mandate that by the beginning of the 2020-2021 school year, each district must establish a school-based threat assessment program. HB 1216 sets out the basic framework and creates a statewide network that provides districts with training and technical assistance to implement school-based threat assessment programs and other safety measures. The statewide network is comprised of the collaborative efforts of the state safety center established by the Office of Superintendent of Public Instruction (OSPI) and the regional safety centers established by the Educational Service Districts (ESDs).

HB 1216 specifies that school-based threat assessment programs be consistent with a model policy developed by WSSDA and OSPI in consultation with the Student Safety and Student Well-being Advisory Committee and other organizations with pertinent expertise. Based on this collaboration, we are pleased to present new **Model Policy/Procedure 3225–School-Based Threat Assessment** to meet the requirements of the statute; this is an Essential policy. You'll also find corresponding policy revisions in **Model Policy and Procedure 4314–Notification of Threats of Violence or Harm**; this is also an Essential policy.

As we developed the model policy and procedure to implement the statutory framework, we looked to threat assessment programs already used in Washington. We also reviewed the practices of Virginia and Maryland. Pulling it all together, the model policy and procedure is based on / consistent with a synthesis of nationally established research, practice, and standards. Two publications in particular were instructive: "Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence"[1] and "A Study of the Pre-Attack Behaviors of Active Shooters in the United States Between 2000 and 2013."[2] That research was based on the *Safe School Initiative*, which began with a study of the thinking, planning, and other pre-attack behaviors engaged in by students who carried out school a shooting.[3]

Threat assessment based on the 10 key findings

The *Safe School Initiative* examined incidents of targeted school violence[4] from the time of the incident backward to identify the attackers' pre-incident behaviors and communications and explore whether such information might aid in preventing future attacks. The 10 key findings of the *Safe School Initiative* are:

- Incidents of targeted violence at school are rarely sudden, impulsive acts.
- Prior to most incidents, other people knew about the attacker's idea and/or plan to attack.
- Most attackers did not threaten their targets directly prior to advancing the attack.
- There is no accurate or useful "profile" of students who engage in targeted school violence.
- Most attackers engaged in some behavior prior to the incident that caused concern or indicated a need for help.
- Most attackers were known to have difficulty coping with significant losses or personal failures. Many had considered or attempted suicide.
- Many attackers felt bullied, persecuted, or injured by others prior to the attack.
- Most attackers had access to and had used weapons prior to the attack.
- In many cases, other students were involved in some capacity.
- Despite prompt law enforcement responses, most shooting incidents were stopped by means other than law enforcement intervention.

These 10 findings indicate that there are productive actions districts can take to reduce targeted school violence. Specifically, districts can develop their capacity to recognize and evaluate information that might indicate a risk of a targeted school attack–this is threat assessment–and then use the assessment to develop and implement interventions that prevent potential school attacks from occurring.

School-based threat assessment is distinct from law enforcement investigation (if any). The goal of the school-based threat assessment process is to take appropriate preventive or corrective measures to maintain a safe and secure school environment, to protect and support potential victims, and to provide assistance, as needed, to the individual being assessed. In addition to being distinct from a possible law enforcement investigation, school-based threat assessment is also distinct from student discipline procedures. However, it is worth noting that the functions of school-based threat assessment might run parallel to student discipline procedures.

Based on the 10 key findings, effective threat assessment is based on facts, not on a student's demographics or personal characteristics. Threat assessment is rooted in the proposition that each situation of concern should be viewed and assessed individually. The central question of a threat assessment is not whether a student got angry and made a threat, the question is whether a student poses a threat.

The school-based threat assessment team

It starts with putting together and training a school-based threat assessment team. HB 1216 specifies that the school-based threat assessment team must be multidisciplinary and multiagency. Team members might include a school counselor, a school psychologist and/or school social worker, a school resource officer or other law enforcement member, other individuals from the community, a school administrator, and a special education teacher. Not every team member needs to participate in every threat assessment. However, if faced with a potential threat made by, or directed toward, a student eligible for special education services, the threat assessment team must include a special education teacher.

In addition to having team members with a variety of areas of expertise, team members must have a questioning, analytical, and skeptical mindset. Team members need to be able and mindful to develop interventions that help rather than harm. Further, team members need discretion, and an

Model Policy / Procedure **3225**
Model Policy / Procedure **4314**

[1]https://www.dhs.gov/sites/default/files/publications/18_0711_USSS_NTAC-Enhancing-School-Safety-Guide.pdf
[2]https://www.fbi.gov/file-repository/pre-attack-behaviors-of-active-shooters-in-us-2000-2013.pdf/view
[3]https://www2.ed.gov/admins/lead/safety/preventingattacksreport.pdf
[4]Targeted violence is defined as an incident of violence where a known or knowable attacker selects a particular target prior to their violent attack.

appreciation for keeping information confidential, including having an appreciation for the possible harm that might result from the inappropriate release of information. Your district does not want to wait until a crisis occurs to establish its threat assessment team. Remember that HB 1216 requires districts to have a school-based threat assessment program in place before the start of the 2020-2021 school year and that developing the threat assessment team's capacity involves training and time.

Information sharing to support threat assessment

The research shows that in most cases, there was information available prior to the incident that suggested the student was planning an attack at school. However, the research also indicates that the information was like puzzle pieces with different people having just a piece of the puzzle. This is why the threat assessment team might need to gather information from multiple sources–teachers, parents, friends, guidance counselors, after-school program staff, part-time employers, and others.

But how does a multidisciplinary, multiagency team deal with educational records? The Family Educational Rights and Privacy Act (FERPA) protects the privacy of "education records," defined as any records that contain information directly related to a student and that are maintained by the district. Generally, the parent's prior written consent is needed to disclose personally identifiable information from a student's education records, unless certain exceptions apply. One exception is for a health and safety emergency. FERPA provides that schools may disclose personally identifiable information when there is an immediate need to protect the health or safety of the student or others. Under this exception, schools must define the term "health or safety emergency" narrowly and are permitted to disclose information from education records only to those individuals who need the information in order to protect the student and others. In sum, the health and safety exception applies *when* a health and safety emergency exists, not for the purpose of determining whether a health and safety emergency exists. This means that although the health and safety exception is relevant to threat assessment, it is not the starting place.

Threat assessment team members, including community members serving on the team, can constitute "school officials" under FERPA when the district and team members adhere to certain criteria.[5] Qualifying as a school official means that team members may access student education records, including personally identifiable information, without parental consent. All threat assessment team members are "school officials" when they:

1. Perform an institutional service or function for which the school or district would otherwise use employees;
2. Are under the "direct control" of the school or district with respect to the use and maintenance of the education records;
3. Are subject to FERPA's use and re-disclosure requirements, which limits the use and re-disclosure of the student's personally identifiable information to the purposes of its disclosure; and
4. Qualify as "school officials" with "legitimate educational interests," which means needing to review an education record in order to fulfill his or her professional responsibilities.

Importantly, each district must include the specific criteria it uses for determining who constitutes a "school official" and what constitutes a "legitimate educational interest" in its annual notification of FERPA rights.[6]

> **Model Policy /
> Procedure
> 3225**
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> **Model Policy /
> Procedure
> 4314**

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[5]https://studentprivacy.ed.gov/sites/default/files/resource_document/file/SRO_FAQs_2-5-19_0.pdf (See pages 10 - 15)
[6]*34 CFR § 99.7(a)(3)(iii). The U.S. Department of Education has created a "Model Notification of Rights under FERPA for Elementary and Secondary Schools," available at: https:// studentprivacy.ed.gov/resources/ferpa-model-notification-rights-elementarysecondary-schools.*

This means that all threat assessment team members, including team members who are not district employees, are prohibited from re-disclosing information obtained by being a member of the threat assessment team. For example, a threat assessment team member who is a city police officer is generally prohibited from giving the police department information obtained by being a member of the threat assessment team. To ensure that threat assessment team members are aware of the prohibition, you might want to consider requiring each member of your team (or teams) to sign an acknowledgment of his or her responsibilities for safeguarding student information.

As discussed above, an exception to the prohibition is disclosure for a health or safety emergency. The determination that information is sufficiently significant and articulable to warrant a health and safety emergency disclosure is ultimately a district decision. However, districts have the discretion to grant non-employees serving as school officials on the threat assessment team the ability to determine this on the district's behalf.[7]

Please know that this article is not and cannot be a complete review of FERPA requirements. Your district is encouraged to discuss its specific circumstances and any concerns regarding student records with your district's attorney.

Threat management

A school-based threat assessment program includes both threat assessment and threat management. Threat management may include both short-term and long-term interventions. As noted above, the goal of the threat assessment process is to take appropriate preventive or corrective measures to maintain a safe and secure school environment, to protect and support potential victims, and to provide assistance, as needed, to the individual being assessed. Depending on the level of concern, the threat assessment team develops and implements intervention strategies to manage the student's behavior in ways that promote a safe, supportive teaching and learning environment, without excluding the student from the school.

The research has found that an integrated approach to interventions enhances their effectiveness, and this is why the threat assessment program seeks integration with other avenues of intervention. For example, in cases where the student has a disability, the threat assessment team aligns intervention strategies with the student's individualized education program (IEP) or the student's plan developed under section 504 of the rehabilitation act of 1973 (section 504 plan). Similarly, a threat assessment intervention might purposefully run parallel to a response to a behavioral

violation, as governed by your student discipline procedures. Nonetheless, all other teams and/or processes are governed by their own laws and rules and may have differing timelines and due process provisions. This is why it is important to recognize that although seeking alignment and cohesion with other interventions, the school-based threat assessment program remains distinct from all other teams and/or processes.

Model Policy / Procedure
3225
Model Policy / Procedure
4314

Culture and climate of safety, respect, and emotional support

Finally, for a school-based threat assessment program to be effective, it must be implemented within an overall culture and climate that promote safety, respect, and emotional support. Remember, one of the 10 key findings from the *Safe School Initiative* was that many attackers felt bullied, persecuted, or injured by others. Environments characterized by bullying and meanness can lead to student isolation and fear, which in turn might lead to psychological and physical violence. Committing to a district culture where teasing and bullying are not accepted as a normal part of adolescence, and instead, where diversity and difference are respected protects everyone.

Key to a culture and climate of safety, respect, and emotional support is improving and supporting communication. The *Safe School Initiative* found that most school shooters shared their potentially lethal plans with other students, but that students who knew of planned attacks rarely told adults. More recent research found that not every student directly threatened their target prior to an attack, but in the majority of incidents (81%), another person was aware of what the student was thinking or planning.[8] The solution to this lack of communication is purposefully developing trusting relationships between each student and at least one adult in the district. The goal is for the student to be able to share concerns openly and without fear of shame or reprisal. These connections between students and adults not only enable communication they also provide students with vital emotional support.

Developing and implementing a school-based threat assessment program is a complex but worthwhile task. Threat assessment was born from tragic roots. But it has identified a path to learn from tragic events, discern possible threats, and prevent targeted school violence.

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[7]34 CFR §§ 99.31(a)(10) and 99.36
[8]https://www.dhs.gov/sites/default/files/publications/18_0711_USSS_NTAC-Enhancing-School-Safety-Guide.pdf See page 10.

Let's do the numbers

State audits of school districts: numbers and takeaways

By Josh Collette, WSSDA Business and Operations Officer

Since November 1, 2018, the Washington State Auditor's Office has issued approximately 420 audit reports for school districts resulting in 76 findings. This is a decrease of 12 findings from the previous year, but this is still 18 more than what was issued in 2017. It appears the results of the 2018 federal program compliance/single audits have had a significant impact on 2019 results.

The 2018 single audits produced 66 findings. This was an increase of 29 from the previous year. These findings often identified issues that were determined to be material weaknesses in internal controls. These weaknesses caused an increase in some school districts' assessed level of risk for the 2019 audits. This likely required the State Auditor's Office to audit more federal programs to sufficiently address the audit risk. As a result, we continued to see a large number of issues identified and reported as findings during the single audits.

As a reminder, the auditor's risk assessment criteria include but are not limited to: recent audits identifying a material weakness in internal controls, expending a significant amount ($750,000) of funds from the federal program, and whether the program had been reviewed during a recent audit.

It appears that issues regarding highly qualified paraeducator requirements for the Title I federal program were resolved during the 2019 audit cycle. However, compliance with the time and effort and graduation reporting requirements for the program continue to be issues.

School districts must report graduation rate data for all public high schools to the Office of Superintendent of Public Instruction (OSPI) annually. This is done by submitting a Graduation Rate Report that indicates the student's enrollment status: graduated, transferred out, dropped out, migrated to another country, or deceased. The school districts must retain adequate support for changes to a student's status. The audits found the school districts did not retain adequate documentation to support data submitted to OSPI.

2019 Audit Findings Issued by the State Auditor's Office
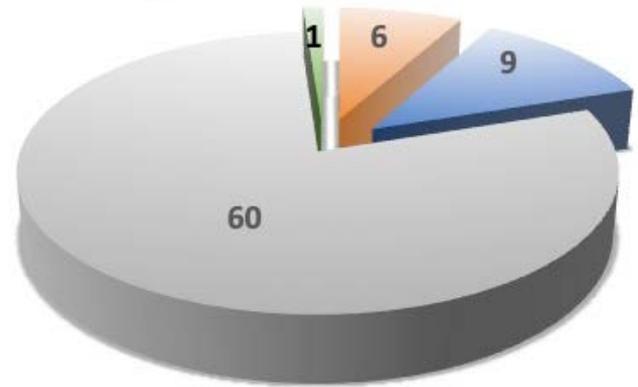
- 🟦 **Accountability**
- 🟩 **Financial Reporting**
- ⬛ **Federal Compliance**
- 🟧 **Fraud**

* Findings By Federal Compliance Area

Graduation Rate Reporting *(Title I Program)*	19	11	1
Suspension & Debarment	15	15	9
Procurement	12	13	14
Cost Principles/Time & Effort	11	9	6
Income Verification *(Child Nutrition Program)*	8	9	5
Eligibility	5	4	1
Reporting	4	2	0
Activities Allowed/Allowable Costs	3	1	1
Assessment System Security *(Title I Program)*	2	3	0
Highly Qualified Paraprofessionals *(Title I Program)*	1	20	4

School districts are responsible for ensuring all payroll charged to federal grants is supported with adequate time-and-effort records. This can be done through maintaining semi-annual certifications or a monthly personnel activity report, such as a detailed timesheet. The type of documentation maintained is dependent upon the number and types of activities an employee performs. The audits found that the school districts did not retain adequate or appropriate documentation to demonstrate compliance with federal time-and-effort requirements.

It also appears compliance with federal requirements for procurement along with suspension and debarment were again common issues during this past audit cycle. Federal grant recipients must follow the more restrictive of state, local, or federal procurement requirements. Some school districts had issues with following the appropriate competitive process when procuring goods and services with federal funds. Also, some school districts used a purchasing cooperative to procure goods or services but did not take steps to ensure the cooperative's procurement process was in compliance with federal grant requirements.

For contracts of $25,000 or more and all sub-awards, a district must verify that the contractor or sub-recipient is not suspended or debarred from conducting business with the federal government. School districts can perform verification by (1) checking the Excluded Parties List System maintained by the General Services Administration, (2) obtaining a certification from the contractor, or (3) adding a clause to the contract stating the contractor meets this requirement. This verification must occur prior to awarding a contract.

Takeaways

The school district's management is responsible for implementing recommendations made by the State Auditor's Office. The school board is responsible for the oversight of this process through discussions and periodic reports from management. The school board may also want to ensure that the school district's management performs periodic analysis of internal controls and procedures to identify and evaluate potential risks for noncompliance. Also, the school board should ensure that the district's policies reflect best practices.

Based on a review of the findings, the cause of these issues was inadequate knowledge on the part of school district staff of federal program requirements. Often this problem is exacerbated by turnover of staff in key positions. Unfortunately, turnover in staff is inevitable, and this factor should be evaluated carefully as part of the school district's risk assessment.

The resources most commonly needed to address these risks include funding and time for allowing appropriate staff to attend training to become more proficient in their duties. Your local Educational Service District is a great resource for training at minimal cost. The Washington Association of School Business Officials (WASBO) is another great resource. Access to trainings, webinars, workshops, manuals and other resources is included with a membership to WASBO. OSPI also provides training and other resources to help school districts achieve compliance with federal program requirements.
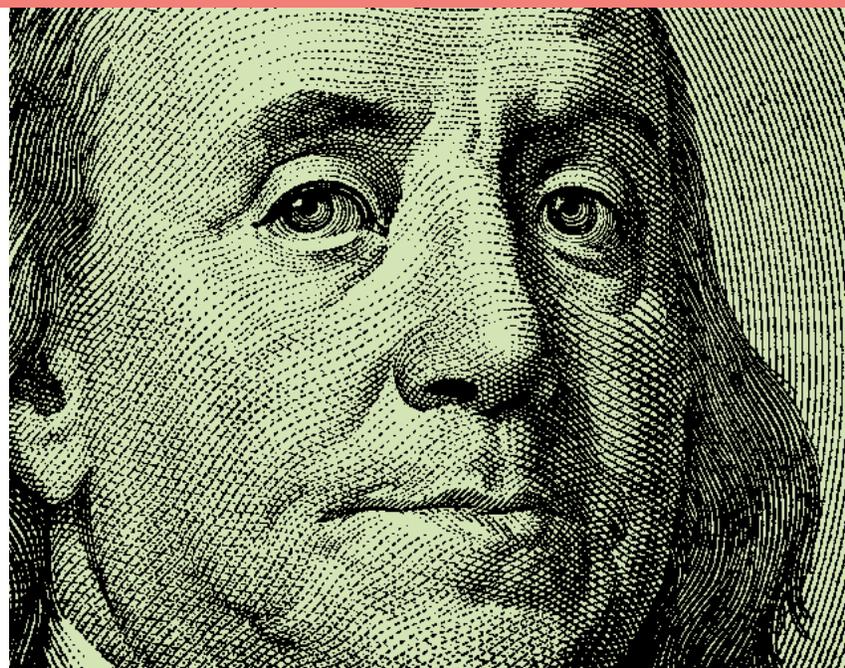
POLICY

OTHER UPDATES

Procedure 6220P
Bid Requirements
Category: **ESSENTIAL**

WSSDA revised the procedure to reflect Senate Bill (SB) 5418, which passed in the 2019 legislative session. SB 5418 changed the dollar threshold related to small-works-roster work from $300,000 to $350,000.

Policy & Legal News

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 trough an innovative, responsive and flexible organization which provides exceptional leadership, professional learning and services in governance, policy, and advocacy.

WASA • WSSDA • WASBO

2020 LEGISLATIVE CONFERENCE AND DAY ON THE HILL

SOUTH PUGET SOUND COMMUNITY COLLEGE AND CAPITOL CAMPUS | FEBRUARY 9–10

REGISTER AND BOOK YOUR HOUSING!

The annual WASA/WSSDA/WASBO Legislative Conference is an important partnership among school administrators, school board directors, and district business managers and provides the opportunity to hear updates on our shared legislative priorities and the current education policy landscape.

SUNDAY'S PROGRAM 2/9
Minnaert Center, South Puget Sound Community College
Tentative topics/presenters include: Staffing Enrichment • Policy Issues • Madeleine Aroney Thompson, Senior Policy Advisor (Education), Office of Governor Jay Inslee • Chris Reykdal, Superintendent, Office of Superintendent of Public Instruction

MONDAY'S DAY ON THE HILL 2/10
Capitol Campus
Attendees will meet with their legislators to discuss shared priorities. WSSDA's Government Relations Team and Legislative Committee members will schedule these critical meetings.

FOR HOUSING AND FULL CONFERENCE DETAILS, VISIT THE CONFERENCE SITE AT WWW.WASA-OLY.ORG/LEG20