

Policy & Legal News

HELPING SCHOOL DISTRICTS TRANSLATE LAW INTO ACTION

**PLUS: Emergencies
Student Discipline
Social Emotional Climate**

Sex Education


WSSDA

FEBRUARY 2021

WASHINGTON STATE SCHOOL
DIRECTORS' ASSOCIATION

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.

Abraham Maslow is best known for his hierarchy of needs theory,

which puts satisfying fundamental physiological needs first and fundamental emotional needs next before the possibility of self-actualization emerges. This “satisfying” of primal needs is less permanent than it sounds. Maslow himself said, “one can choose to go back toward safety or forward toward growth. Growth must be chosen again and again; fear must be overcome again and again.” Maslow’s statement resonates right now. Needed safety measures responding to the pandemic have fostered trauma and there is considerable fear connected to reopening schools. If we want to move forward, we must also circle back, again and again, tending to fundamental needs, keeping students and staff healthy and safe.

Our goal is to support you as you tend to this work. Therefore, this edition of Policy & Legal News includes the debut of new Model Policy 3112 – Social Emotional Climate, which at its heart seeks to address Maslow’s hierarchy of needs in the classroom and school context. We’re also pleased to provide you with updated versions of Model Policy 3432 – Emergencies and Model Policy 3241 – Student Discipline. These policies address fundamental physiological and emotional needs that are foundational to safety and improving student outcomes.

Also in this issue, you’ll find WSSDA’s responses to frequently asked questions (FAQ) regarding the potential option to hold in-person components to board meetings. It is important to note that the FAQs will not be permanent guidance. Instead, the information provided is specific and limited to the waivers and suspensions to the Open Public Meetings Act currently in place. Although its shelf-life is limited, this is information that your board needs right now.

Remember, improving student outcomes improves students’ lives, now and in the future. Your board’s work matters. Thank you school board directors for rejecting fear, choosing growth, and doing so again and again.

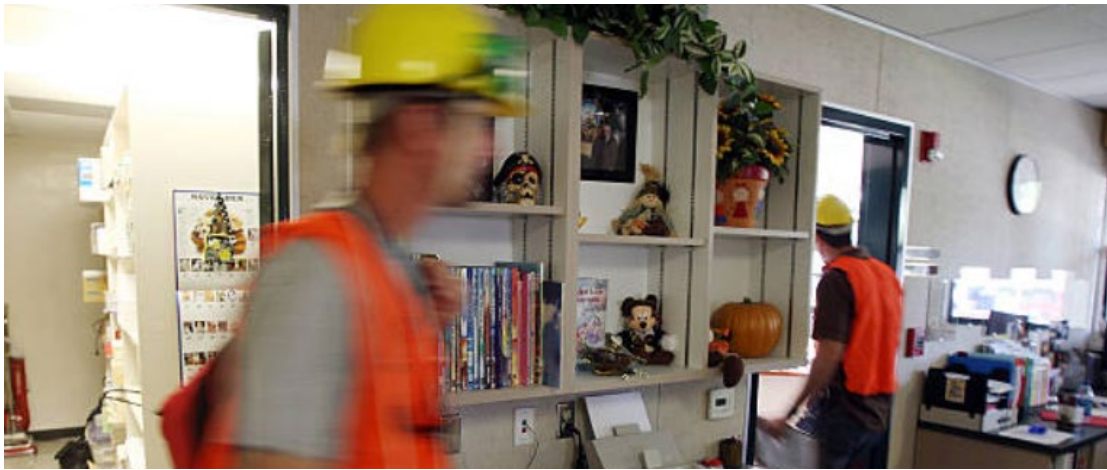
Best,
Abigail Westbrook, J.D.
Editor



Policy & Legal News

HELPING SCHOOL DISTRICTS TRANSLATE LAW INTO ACTION

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★ UPDATES

WSSDA has developed, revised, or retired the following model policies and procedures. You will find marked-up and clean copy versions of these documents (as applicable) on Docs Online below this issue of *Policy & Legal News*.

ESSENTIAL

- **2413** – Equivalency Credit Opportunities
- **3241 / 3241P / 3241F1(NEW) / 3241F2 (NEW)** – Student Discipline
- **3432/3432P** – Emergencies

ENCOURAGED

- **2125 / 2125P** – Sexual Health Education
- **3112/3112P** – Social Emotional Climate (NEW)
- **3200** – Rights and Responsibilities (RETIRED)
- **6000/6000P** – Program Planning, Budget Preparation, Adoption, and Implementation
- **6600** – Transportation

DISCRETIONARY

- None

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- **2000 Series** – Instruction
- **3000 Series** – Students
- **6000 Series** – Management Support



FEBRUARY 2021

WASHINGTON STATE SCHOOL
DIRECTORS' ASSOCIATION



COMPREHENSIVE Sexual Health *NEW requirements for* education

By Laurie Dils, Sexual Health Education Program Supervisor, OSPI

MODEL POLICY AND
PROCEDURE
2125
2125P
Sexual Health
Education

[Senate Bill \(SB\) 5395](#) was passed by the legislature in 2020 and subsequently approved by the voters in the 2020 general election. The bill requires all K-12 public schools to provide comprehensive sexual health education to all students by the 2022-2023 school year. As defined in the bill, comprehensive sexual health education is recurring instruction in human development and reproduction that is medically accurate, age-appropriate, and inclusive of all students. The bill also defines instruction for grades K-3 as social and emotional learning (SEL) that is consistent with Washington's SEL Standards and Benchmarks. Instruction for grades 4-12 will continue to include HIV/AIDS prevention, as the AIDS Omnibus Act is also still in place. Parents continue to have the ability to opt their children out of comprehensive sexual health education instruction.

New requirements are not significantly different from those in place since 2007, when the Healthy Youth Act went into effect. The largest change is that school districts are now required to provide comprehensive sexual health education to their students. New legislative requirements, codified in [RCW 28A.300.475](#), require comprehensive sexual health education to be provided at several points during the K-12 experience, which is consistent with what research

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“The K-3 requirement for social and emotional learning provides clear benefits to students in their early grades that they carry with them throughout their educational career.”

shows is necessary to see positive outcomes for youth. Affirmative consent and bystander training were called out in the bill to address concerns about unacceptably high rates of unwanted sexual contact reported by Washington students. Bystander training is often included in bullying prevention programs as a way to encourage safe intervention when students see behavior such as bullying or sexual harassment.

The K-3 requirement for SEL provides clear benefits to students in their early grades that they carry with them throughout their educational career. Several decades of research on SEL show key outcomes such as improved classroom behavior; increased ability to manage stress and depression; and better attitudes about themselves, others, and school.¹

SEL and comprehensive sexual health education are not interchangeable, but there are clear connections between the two. For instance, by focusing on managing emotions, setting goals, communicating effectively, and developing and maintaining healthy relationships, SEL lays a solid foundation for subsequent instruction in comprehensive sexual health education – which also focuses on these topics and

skills. Sexual health education cannot be considered comprehensive without including SEL. In order to effectively discuss healthy romantic relationships, students need to understand what constitutes a healthy friendship and how to be a good friend. In order to understand and practice affirmative consent related to sexual behavior, students need to have learned how to set personal boundaries and to respect the boundaries of others. In order to avoid perpetrating sexual violence, students need to have developed empathy and regard for others.

While SEL is an important prerequisite for comprehensive sexual health education, comprehensive sexual health education also results in benefits related to social and emotional health, as well as the better-known health benefits such as delayed sexual activity, fewer sexual partners, and reductions in STDs and unplanned pregnancies. Comprehensive sexual health education instruction that is scaffolded and provided over time improves communication skills, increases empathy and respect for others, results in an increased sense of self-control and safety,² and can also help improve student academic success.³ The new requirements for both SEL and comprehensive sexual health education have the potential to help all students achieve greater health and well-being throughout life.

The first steps of bill implementation for the current school year are for districts to prepare to review and adopt, or develop themselves, a comprehensive sexual health education curriculum. Districts that have not previously provided

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Sexual Health
Education**

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¹CASEL (2012). [Effective Social and Emotional Learning Programs - Preschool and Elementary School Edition](#).

²Advocates for Youth (2014). Sexuality Education: Building an evidence- and rights-based approach to healthy decision-making. <http://advocatesforyouth.wideeyeclient.com/resources/fact-sheets/sexuality-education-2/>

³Goldfarb, E. S., & Lieberman, L.D. (2020). Three Decades of Research: The Case for Comprehensive Sexual Health Education. *Journal of Adolescent Health*. [https://www.jahonline.org/article/S1054-139X\(20\)30456-0/fulltext](https://www.jahonline.org/article/S1054-139X(20)30456-0/fulltext).

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Sexual Health
Education**

instruction related to sexual health beyond required HIV/AIDS prevention education will need to work with their families, and local communi-

ties as they consider curriculum selection. Districts already providing comprehensive sexual health education should ensure that affirmative consent and bystander training are incorporated into instruction as soon as possible. Supplemental materials are available to address these topics if a chosen comprehensive curriculum does not. Curricula can be selected from the [list of already reviewed](#) materials that OSPI and the Department of Health (DOH) provide, or can be something else chosen or developed by the district. If a district reviews or develops their own instructional materials, they must use [review tools developed by OSPI](#).

Beginning in the 2021-2022 school year, all schools serving students in grades 6-12 should be providing comprehensive sexual health education twice in grades 6-8 and twice in grades 9-12. The term "twice" refers to enough instruction, in at least two different grades, to ensure students get useful instruction that is consistent with Washington's K-12 Health Education Learning Standards on all topics required in the bill. For most schools this will be at least two units of instruction, though there is flexibility in the law on when and how to provide such instruction.

Beginning in the 2022-2023 school year, all schools must provide SEL at least once to students in grades K-3. While adoption of a SEL curriculum is not required, research shows students benefit most from SEL when they receive an evidence-based program for an extended period of time. More information can be found on [OSPI's SEL webpage](#).

Also in the 2022-2023 school year, students in grades 4-5 must receive comprehensive sexual health education at least once. In those grades, most schools are already providing instruction related to human growth and development, which would continue. Additional instruction must be provided that addresses healthy relationships, including age-appropriate content on consent and bystander training.

OSPI will continue to provide technical assistance, professional development, and resources to support district implementation of comprehensive sexual health education. In addition to our [Sexual Health Education webpage](#), OSPI's sexual health education staff are available to consult with district or school staff. We look forward to continued partnerships with many of you and new partnerships with others.

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The School Board's Role in Adopting Curriculum

School boards play a key role in the adoption of instructional materials, and this role requires working closely with district staff and the community. The adoption of curriculum is an issue that illustrates the board's challenge of carrying out the appropriate policy role and objectively addressing emotional or philosophical issues that involve the community.

Decisions about your district's curriculum provide a good example of the way school directors must work with the district's professional staff, each in their proper roles, to arrive at legally and educationally sound choices. Although the school board has the ultimate authority and responsibility to select the instructional materials used in the schools, RCW 28A.320.230 requires school boards to delegate the task of reviewing and recommending instructional materials to a district instructional materials committee.

The Curriculum Review and Adoption Process

Your district superintendent appoints members to the instructional materials committee. Members must represent the district's professional staff, including representation from the district's curriculum development committees. School boards have the choice of including parents on the committee, but a majority of the committee must be district professionals.

The committee reviews all materials that are proposed for use as primary instructional materials for courses



offered in the district. The review is consistent with any state or federal legal requirements and the district's goals and principles regarding instructional materials. If a text or other material is recommended for adoption, the recommendation is forwarded to the board for final action.

The instructional materials committee also responds to community questions or concerns about instructional materials. If a member of the public objects to the use of an instructional material, either in a particular grade or throughout the district, that individual can petition the committee to reconsider its recommendation of the instructional material. The committee will hold a public hearing, including those who wish the text to be removed or limited, and the teachers who are using the challenged materials. The committee will make a decision, which may be appealed to the school district's board of directors.

Navigating Community Input

The school board needs to understand and fulfill its appropriate role in the adoption of instructional materials and in responding to challenges to materials. Concerns about instructional materials are often deeply held and can result in intense conflict in a district—conflict that the board feels most directly. It is important, however, to let the system work, including respecting the work of the instructional material committee

Incorporating Additional Information into Curriculum: THE BOARD'S ROLE

Senate Bill (SB) 5395 – Sexual Health Education (2020) requires the school boards for districts that were not providing comprehensive sexual health education in either the 2019-2020 and/or 2020-2021 school year(s) to prepare for incorporating information about affirmative consent and bystander training into the comprehensive sexual health education curriculum, instruction, and associated materials. As part of this process, SB 5395 directs such school boards to consult with parents and guardians of students, their local communities, and WSSDA. This document is intended to provide school boards with the consultation from WSSDA specified in SB 5395.

and ensuring that curriculum aligns with any applicable legal requirements.

If an individual board member takes an active role in a controversy over instructional materials before the instructional materials committee has acted, that board member may have compromised their objectivity if the matter is appealed to the board. In those cases, the board member should not participate in the board's hearing of the appeal, and may have seriously damaged the necessary trust between the staff and the board. A review of RCW 28A.320.230 and Model Policy and Procedure 2020 – Course Design, Selection, and Adoption of Instructional Materials provides additional background information.

Student Discipline

Recent changes in our state's student discipline laws, including House Bill 1541 (2016) and comprehensive revisions to chapter 392-400 WAC that became effective in 2019, eliminated the legal foundation for zero-tolerance student discipline policies. Such zero-tolerance student discipline policies focused on excluding students from school. The same revisions to state law required districts to use proactive, instructional, and restorative approaches to behavior while keeping students in the classroom to the maximum extent possible. Since the enactment of these legal changes, evidence continues to verify the strong correlation between exclusionary discipline (meaning suspension and expulsion) and outcomes such as reduced graduation rates, involvement in the juvenile justice system, and overall negative school climate. Additionally, researchers and educators are increasingly demonstrating

how trauma-informed and positive discipline approaches can improve student outcomes.

To mitigate persistent disparities, discipline reform and school improvement efforts must work to benefit those students who have long been most negatively impacted by punitive approaches to discipline. Despite the decline of overall rates of exclusionary discipline over the last decade, significant disparities persist. Like other states, Washington has significant disparities in the discipline of students based upon race/ethnicity, disability status, language, sex and other factors. For example, during the 2018–2019 school year, students with disabilities in Washington were 2.7 times more likely to receive an out-of-school exclusion than students without disabilities. Similarly, black students made up 4.5% of the student population but accounted for 10.6% of all out-of-school exclusions.

**MODEL POLICY
3241/3241P
Student
Discipline**

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“To mitigate persistent disparities, discipline reform and school improvement efforts must work to benefit those students who have long been most negatively impacted by punitive approaches to discipline.”

MODEL POLICY
3241F1
3241F2
Student
Discipline

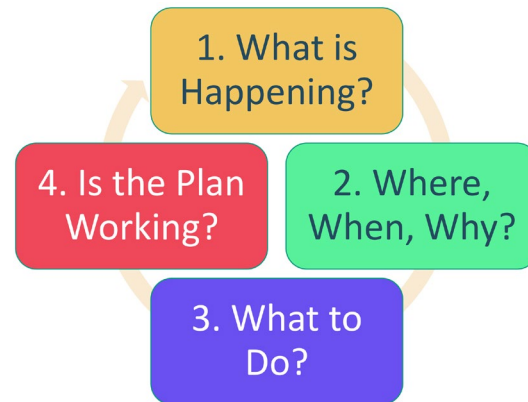
In addition to existing discipline disparities, the COVID-19 pandemic has had a disproportionately negative impact on students with disabilities and students and families of color, thereby exacerbating persistent educational opportunity gaps. Some refer to the combination of COVID-19 and the persistent educational opportunity gaps caused by systemic racism as “twin pandemics,” which are intensifying each other’s harmful effects. Regardless of the name, the current situation creates even greater urgency for working toward equitable opportunities and better outcomes for each and every student. This work includes striving for continuous improvement to student discipline policies and practices at the local level.

To support your board in this continuous improvement process, we’ve updated Model Policy and Procedure **3241 – Student Discipline**; this is an Essential policy. We’ve incorporated elements from Model Policy 3200 – Rights and Responsibilities into 3241 and retired 3200. These previously separate but interrelated policies work better and are less confusing synthesized into one holistic policy.

There are still sections in the revised model policy and procedure that need significant district customization and require consultation at the building level with staff, students, parents, families, and the community. Engaging with the whole educational community and incorporating that feedback is a key component of improving student discipline, but it is not easy to do. To help your district in this customization process, we’re providing two new supplementary reference/example documents (3241F1 and 3241F2) to model the necessary components and how you can incorporate interventions and supports for students, including a multi-tiered system of supports (MTSS) or positive behavioral interventions and supports (PBIS) framework.

Model Form **3241F1 – Example District Discipline Matrix**, provides an example of clearly defined behavioral violations in matrix format and includes information about related school referrals and protocols. 3241F1 organizes behavioral violations by severity levels, including behavioral violations

Root Cause Analysis for Discipline Disparities



for which state law permits considering the use of long-term suspension or expulsion. Model Form **3241F2 – Example District Continuum of Discipline Responses**, provides an example of how best practices and strategies may be embedded in your district’s responses to behavioral violations, including responses at the administrative level and the classroom level, and responses across severity levels.

The revisions also reflect changes in recently enacted legislation, highlighting connections and adding cross-references to other recently revised or developed WSSDA policies and procedures such as 3112 – Social Emotional Climate, 3225 – School-Based Threat Assessment, and 3143 – Notification and Dissemination of Information about Student Offenses and Notification of Threats of Violence or Harm.

Finally, the revisions seek to create better alignment with guidance from the National Technical Assistance Center on Positive Behavioral Interventions and Supports (PBIS). This guidance is included in the publication [Key Elements of Policies to Address Discipline Disproportionality: A Guide for District and School Teams](#) and also included in guidance from the American Association of School Administrators (AASA) and the Children’s Defense Fund (CDF) in the publication [Framework for Revising School District Codes of Student Conduct](#).

“Some refer to the combination of COVID-19 and the persistent educational opportunity gaps caused by systemic racism as “twin pandemics,” which are intensifying each other’s harmful effects.”



MODEL POLICY
3112
3112P
Social Emotional
Climate

Social Emotional Climate

Social and Emotional Learning (SEL) is broadly understood as a process through which individuals build awareness and skills in managing emotions, setting goals, establishing relationships, and making responsible decisions that support success in school and life.

There is growing recognition of the central importance of SEL for student engagement and success and it is not merely because SEL is trendy. Rather, this recognition is based on research linking student SEL capacities to important outcomes across a lifetime, including academic achievement and extending to developing positive relationships with adults and peers and reduced rates of incarceration in adulthood.

In addition, research continues to reveal that adults' SEL capacities are related not only to adult outcomes like reduced educator exhaustion and stress, but also to student outcomes, such as an improved sense of belonging in school. Given this importance, schools and districts have increased their attention to SEL. Responses have included implementing targeted SEL interventions in classrooms and by taking a school-wide approach to creating a positive climate for all students.

Background

Statewide efforts to support SEL have been underway for several years. Washington was among the first states to develop guidance for SEL in K-12 education. In 2016, the Washington SEL Benchmarks Workgroup released a report that specified a set of SEL standards and benchmarks.

In 2017, our Legislature allocated resources to the Office of the Superintendent of Public Instruction (OSPI) to develop content and organize training and professional development through an online SEL learning module. In 2019, our Legislature established a new workgroup to review and update the SEL standards, benchmarks, and indicators and align them with other relevant standards and guidelines.

On January 1, 2020, OSPI adopted the SEL standards, benchmarks, and indicators developed by the statutory

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workgroup to serve as a framework for teaching SEL. Then, during the 2020 legislative session, our Legislature passed House Bill (HB) 2816 – Positive Social and Emotional School and Classroom Climates, directing WSSDA to develop a model policy for nurturing a positive social and emotional school and classroom climate.

Supporting a positive climate in your district

After consulting with OSPI, the statutorily established SEL workgroup, and others, WSSDA is pleased to present new **Model Policy 3112/3112P – Social Emotional Climate**. This is an Encouraged Policy.

The goal of this model policy is to support and promote, from the board level, district and individual school action plans that will create, maintain, and nurture truly positive school and classroom environments. As you can likely surmise, this is an expansive and aspirational goal. Truly positive school and classroom environments are physically, emotionally, and intellectually safe. They are environments that are respectful and that foster equitable, ethical, social, emotional, and academic education for all students.

Embedded into the model policy is the recognition that there is not one best way to improve school climate. This is because each school has its own unique history, strengths, and needs. The need for customization is also because of the crucial role that students, families, and community members, including their own cultural context, play in creating positive social and emotional school and classroom climates. Although there is no one best way to improve school climate, the process is grounded in a commitment to the guiding principles of equity, cultural responsiveness, trauma-informed practices, and universal design.

Instead of a one-size-fits-all approach, the model policy and procedure provide a framework for an effective climate improvement process for use by schools and their communities. Importantly, the improvement process is not “one and done,” but a continuous cycle of 1) planning and preparation, 2) evaluation, 3) action planning, and 4) implementation. This improvement process framework is aligned with the SEL standards and benchmarks developed by the statutorily created SEL workgroup and adopted by OSPI.

“...the process is grounded in a commitment to the guiding principles of equity, cultural responsiveness, trauma-informed practices, and universal design.”

Save the date!



May 18–19, 2021

8:30 a.m.—12:30 p.m.

Daily via Zoom

SCHEDULED SPEAKERS

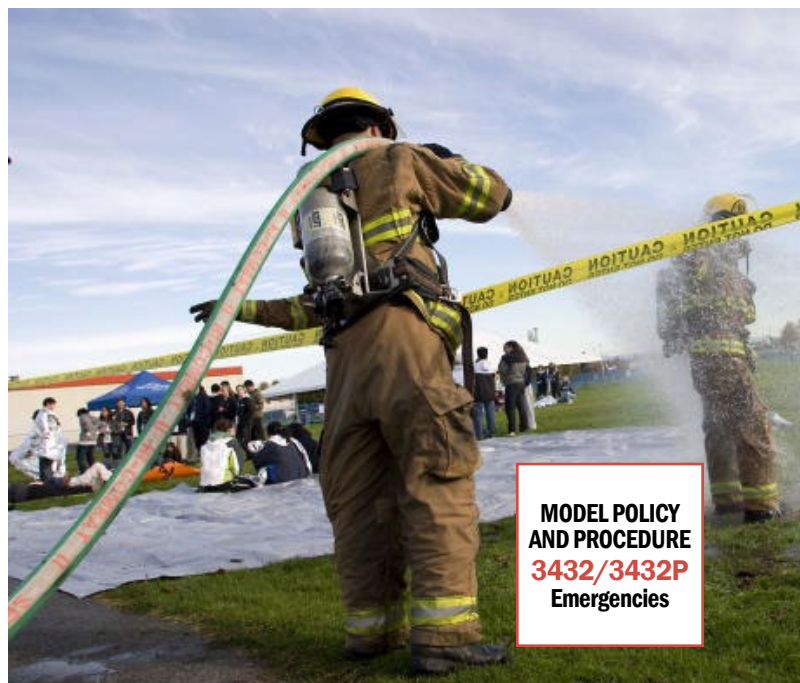
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**MODEL POLICY
AND PROCEDURE
3432/3432P
Emergencies**

EMERGENCIES

As stated in [RCW 28A.320.125](#), Washington has long considered it a matter of public safety for schools and staff to have current school safety plans and procedures in place. Safety plans, also known as emergency operations plans, help maximize safety for all students and staff. Districts and schools are required to address prevention, mitigation, preparedness, response, and recovery strategies as they develop their plans.

The needed components of safety plans are not static. In 2019, our Legislature passed House Bill (HB) 1216,

modifying some of the drill requirements and addressing several areas of safety preparedness. In 2020, we began working our way through the significant impact of COVID-19. We're all aware of the challenges to planning for all the shapes, sizes, and varieties of emergencies that school districts might face. Guiding your district's safety plan is your board policy. We've comprehensively revised **Model Policy and Procedure 3432/3432P – Emergencies** to reflect the current laws and needs related to planning for safety. This is an Essential policy. We hope this article helps unpack some of the key components and terms you'll see as your board reviews your policy and these revisions.

Safety drills are an essential component of safety planning. Washington law mandates safety drills, requiring schools to conduct at least one safety drill per month, including summer months when school is in session with students. Drills allow schools to both teach and practice the three basic functional responses to emergencies: lockdown, shelter-in-place, and evacuation (we'll take a closer look at each one of these below). It is worth noting that the three basic functional responses to emergencies can be applied to a wide

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“Safety drills are an essential component of safety planning. Washington law mandates safety drills, requiring schools to conduct at least one safety drill per month, including summer months when school is in session with students.”

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**MODEL POLICY
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Emergencies**

range of potential threats and hazards. In Washington, schools are also required to practice drop-cover-hold-on drills as the response to seismic event such as earthquakes. These functional responses might be used alone or in combination.

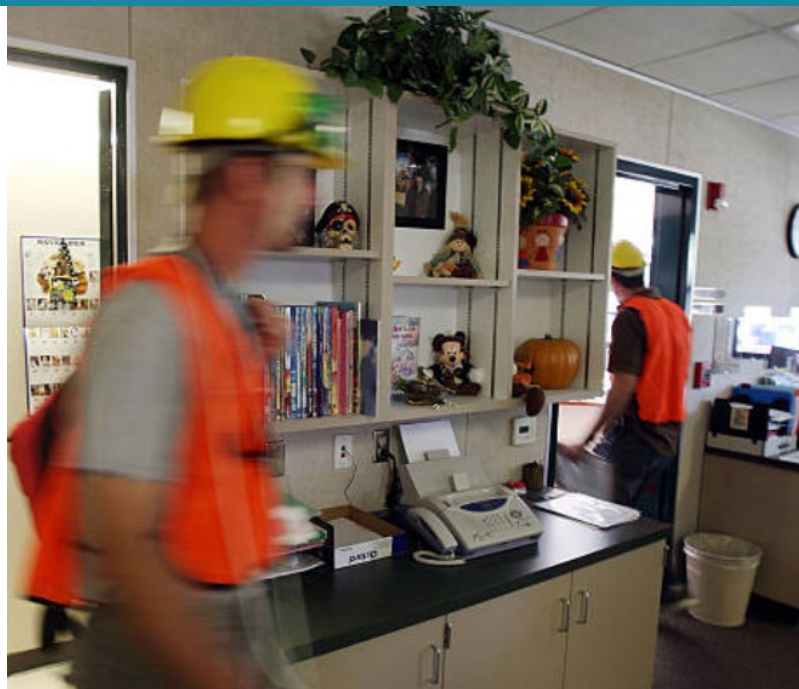
For example, a threat or hazard might require initially using a drop-cover-hold-on response followed by an evacuation response to react as best possible for safety.

Understanding the basic function of specific types of drills/responses is important. The function of a lockdown is to keep threats or hazards out of a school. It is meant to isolate students and staff from immediate dangers outside but nearby. These may include armed intruders, violent behaviors, suspicious trespassers, on-campus shootings, bomb threats, snipers, or nearby police activity. Sometimes, the outdoor danger has been animals such as bears or mountain lions. Variations on a lockdown for specific purposes may be full lockdown, partial lockdown, and even lock out.

The function of shelter-in-place is to immediately isolate your inside environment from the outside environment. Shelter-in-place is initiated because it is safer inside the building or a room than outside. It is primarily used to protect students and staff from chemical, radiological, or biological contaminants released into the environment. Sheltering is closely related to shelter-in-place. It is initiated to quickly move students, staff, and visitors to a protected space, perhaps for an extended period of time, because it is safer in one space than another. Sheltering is often a response to severe weather, or situations that make it necessary for students to remain in school rather than travel on dangerous roads.

The function of evacuation is the opposite of a lockdown. It is used when it is safer to move students and staff to a location outside the school rather than inside the school. An evacuation might occur when an emergency within a school requires total or partial closure of the school, threatens the safety and well-being of students, or interferes in the normal operation of the school. Students might be evacuated to a pre-determined location on campus; sometimes that location might be off campus.

Although not one of the basic functional drills, reunification planning is a critical component of emergency planning and one of the additions of HB 1216. Reunification is also part of the Incident Command System and schools are required to have reunifications plans in place. There is a wide variety of emergency situations that might require student/parent



reunification. Reunification may be needed if the school is evacuated or closed as a result of a hazardous materials transportation accident, fire, natural gas leak, flooding, earthquake, tsunami, school violence, bomb threat, terrorist attack, or a local hazard.

There are several considerations as your district develops its reunification plans. Districts need to identify reunification sites for each school. Districts also need to establish a process for communication between the students assembled at the site and the parents checking-in for reunification. Further, districts need to establish a verification process that an adult is authorized to take custody of a student. Crucially, districts need to communicate the reunification plan and process to parents and families in advance, ensuring that the information is provided in the language needed for understanding.

Finally, as your board updates its policy, your whole district should expect to regularly revisit the existing emergency operations plans or safety plans. There is an anecdotal story regarding reunification plans. For a long time, a school had an ideal off-campus reunification point, which was a nearby church. The space was large, had plenty of room for students to shelter, plenty of parking, and ample space to process reunification between families and students after an emergency. At least, it seemed ideal until the principal realized that the church had closed and the space been turned into a nightclub. Many things can prompt the need for a change in safety plans, including new legislation, pandemics, and changes in your community. Keep your district's policy and plan updated and be safe!

OTHER UPDATES

Policy **2413**–Equivalency Credit Opportunities

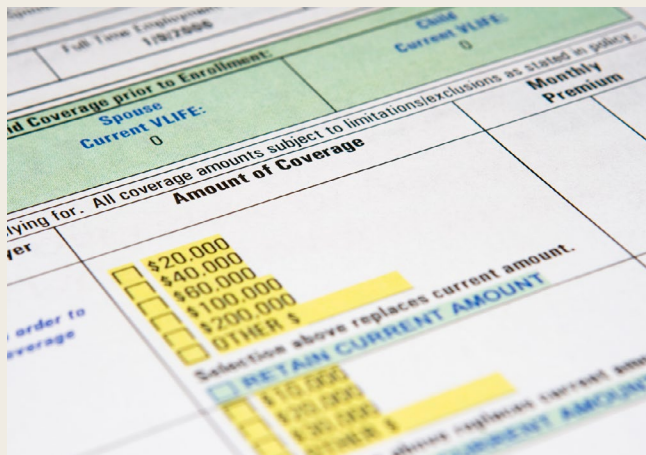
Category: **ESSENTIAL**

WSSDA has revised this model policy to clarify portions that are specific to computer science. In particular, the revisions clarify that not all of the options available for awarding mastery-based credit for other subject matter are available for computer science.

Policy and Procedure **6000/6000P**–Program Planning, Budget Preparation, Adoption, and Implementation

Category: **ENCOURAGED**

WSSDA made several revisions to the policy and procedure. We revised language so it does not need updating any time changes in the law or changes in contracts occur. The revisions use more enduring language. For example, “The district will make payroll deductions for staff as required by law [...]” and “The district will make payroll deductions for staff based on contractual agreements, such as those required by collective bargaining agreements.” We also added several legal references that address payroll deductions for staff.




Policy **6600**–Transportation

Category: **ENCOURAGED**

WSSDA has updated this policy based on House Bill (HB) 2455 – Child Care – Parents Attending High School. The legislation provides that at the request of an eligible student, a school district may allow the student to transport an infant on a school bus or other district transportation. The infant must be transported in a rear-facing child restraint system. The legislation further states that if the district denies the student’s request to transport an infant by bus, the district must authorize other arrangements for the student’s transportation. An eligible student is any student served by the transportation program of a school district or compensated for individual transportation arrangements whose route stop is outside the walking area for a student’s school, except if the student to be transported is disabled.



Introduction

This FAQ provides guidance regarding the possible resumption of in person school board director meetings and the intersection of the Healthy Washington – Roadmap to Recovery plan, applicable state guidance, and the Open Public Meetings Act (OPMA).

Background

On January 11, 2021, the Healthy Washington – Roadmap to Recovery plan became the governing structure for Washington state's reopening efforts. This new plan divides the state into eight regions and uses a two-phase approach to reopening. As of February 15, 2021, all eight regions of the state are in Phase 2. However, it is important to remember that the phase designation is fluid and subject to change.

Regions in Phase 2 can resume in-person public meetings, subject to certain requirements and restrictions found in Proclamation 20-28.14, Open Public Meetings Act and Public Records Act Proclamations (December 8, 2020) and the state's Miscellaneous Venues – COVID-19 Requirements, which was revised on February 1, 2021.

For Phase 2 regions in general, public agencies such as school boards can now add an in-person component to their public meetings if they:

- Limit occupancy in each room to either 25 percent of capacity, or 200 people (excluding staff), whichever is fewer;
- Require that all attendees wear proper face coverings;
- Require that all attendees maintain six feet of physical distance from each other; and
- Sanitize the meeting rooms.

The Miscellaneous Venues guidance identifies 16 requirements, which the guidance calls General Requirements that a venue must satisfy before it can operate, including the four listed above. Some of these requirements may not apply to your board's public meeting or the venue in which it will be held. For example, if the board will not be serving food or beverages during its meeting, then it need not comply with the requirements applicable to food service.

Before holding an in-person meeting, please review all 16 General Requirements and evaluate the availability of meeting venues that allow for implementation of the applicable safety requirements. Work with your legal counsel, health and safety advisors, facility staff, and others to determine:

- Which of the 16 requirements are applicable to your board's meeting and venue;
- Whether there's a meeting venue where the board can implement the applicable safety requirements and;
- How your board will ensure that it is complying with those requirements.

And if your board cannot meet the applicable requirements, then the public meeting must be recessed until compliance is restored, or, if compliance can't be restored, then the public meeting must be adjourned to be continued another time.

General Considerations

If your board decides that it will continue to hold its public meetings entirely remotely, you do not need to make any changes. However, if your board opts to resume in-person meetings, keep in mind that it must continue offering a virtual or remote participation option. Additionally, please consider the following:

- Can you arrange seating areas to maintain a six-foot physical distance?
- Does the venue offer multiple entrance and exit points that are accessible under the Americans with Disabilities Act (ADA) to avoid groups gathering?
- Does your district have a plan for registering attendees safely? Don't forget to retain registration information, such as sign-in sheets, for up to 28 days following the meeting.
- Do you have hand sanitizer and face coverings for attendees who may need them?
- Have you considered how staff will participate in the meeting? Can they do so safely?
- Does your venue have overflow areas with physically distanced seating, hand sanitizer, and real-time audio and video connections so attendees seated in an overflow area can still observe and participate in the meeting?
- Do you have a plan for sanitizing and disinfecting shared spaces and equipment, such as tables, podiums, and microphones, between users?

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Frequently Asked Questions

Q: Must school boards in Phase 2 implement an in-person option?

A: No. Offering an in-person option is subject to stringent requirements that many school districts might not be able to fulfill.

Q: Can school boards in Phase 2 hold meetings subject to the OPMA exclusively in-person?

A: No. The provisions for an in-person option in Proclamation 20-28.14 describe it as “an addition to hosting the remote meeting.”

Q: Can members of the school board meet in-person while the public participates exclusively via remote methods?

A: No. A public body that has chosen to hold an in-person meeting must accommodate, to the extent practicable, those wishing to attend in-person. And any person who wants to attend a public meeting with an in-person component “must be able to do so at a physical location meeting the [applicable requirements], either in a primary meeting location or an overflow physical location...” Proclamation 20-28.14.

Q: If offering an in-person option, can the school board restrict public comment period to either the in-person venue or the remote method exclusively?

A: No. Public comment periods have First Amendment protections. To the extent feasible, your interactions with the public should be equivalent, regardless of whether they are participating remotely or in-person.

Q: What is the standard for “feasible” when ensuring all attendees are pre-registered and retaining contact information for all attendees for 28 days?

A: The state doesn’t explain what it means by “feasible,” but it probably meant something that could be done without an unreasonable amount of time, effort, or money. Look for technological options your board may already have available to it, or that’s readily available, to pre-register attendees. Consider adding a registration widget or tool to the board’s website, using an easily available online form builder, such as Google form, having interested persons email a staff member, and other low-cost, easy-to-implement options.

Q: Does the contact information of members of the public who pre-register to attend a meeting become a public record, subject to disclosure?

A: Contact information provided as part of the pre-registration process is intended to assist public health authorities with contact tracing – the process of identifying and reaching out to people who may have been exposed to a person with COVID-19. Because that contact information is being provided for a public health purpose, it is not subject to disclosure under the Public Records Act (PRA). Proclamation 20-64, et seq. Governor Inslee extended Proclamation 20-64, et seq., until the COVID-19 state of emergency is either terminated or rescinded, whichever occurs first. Proclamation 20-64.5 (January 19, 2021).

To encourage individuals to share their contact information and assist public health authorities’ contact tracing efforts, Proclamation 20-64, et seq., exempts the following information from disclosure when collected for a public health purpose. A person’s:

- Name;
- Date of birth;
- Photograph;
- Telephone numbers;
- Email addresses;
- Mailing or residential addresses; and
- Other contact information, including but not limited to any information found in a customer, visitor, or employee log.

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If it is feasible to do so, school districts should collect the information listed above to assist public health authorities. School districts should consider including in their pre-registration process several notices informing attendees that their contact information is not subject to disclosure, will only be used for contact tracing, and will be destroyed after it is no longer needed. Doing so may encourage attendees to share their contact information, which will help public health authorities.

Attendees' contact information is only exempt from disclosure when collected for public health purposes related to the COVID-19 emergency. If a school district wants to use attendees' contact information for some other purpose – for example, to add attendees' email addresses to the news and announcements listserv – then it should request that information separately. For example, the district could provide a check box that says, “may we add you to our email list – Yes/No.”

Contact information collected to assist public health authorities' contact tracing efforts may not be disclosed “for any discretionary purposes not related to public health.” Proclamation 20-64. For that reason, school districts should consider treating attendees' contact information collected for public health purposes similar to confidential information. This would include implementing physical, electronic, and managerial safeguards to prevent unauthorized access to or use of attendees' contact information.

Q: Would contact information be subject to archiving requirements (lasting much longer than 28 days)?

A: In August of 2020, the Washington State Archives updated its records management advice addressing how long public agencies must keep logs, such as visitor logs, containing contact information when collected for the purpose of assisting public health authorities with contact tracing. Public agencies must keep contact information collected solely for contact-tracing purposes until no longer needed for that purpose and then destroy it.

Under the most recent Miscellaneous Venues guidance, public agencies hosting in-person meetings “should... retain contact information for all attendees for 28 days.” School districts should revise or update their records retention policies accordingly.

The State Archives has other resources to assist public agencies manage records concerning the COVID19 pandemic.

Q: Does “staff” include any district employee? Including those who participate in board meetings as cabinet members?

A: As used in the Miscellaneous Venues guidance, “staff” are responsible for monitoring seating areas to ensure physical distancing is maintained between attendees, cleaning high-touch surfaces, and ensuring that cloth face covering and social distancing practices are enforced and practiced by all attendees. Members of a school district's cabinet participating in a board of directors meeting would generally not be expected to perform such tasks. Nor are they generally responsible for the tasks more commonly performed by employees who staff meetings of the district's board of directors, such as taking minutes, managing any audio-visual equipment, and supporting the directors and district administrators participating in the board meeting.

Another reason for concluding that cabinet members should not be included among the district employees staffing a board meeting is that, under the Miscellaneous Venues guidance, staff are not included in any occupancy calculations. To ensure that:

1. The number of people in the same room does not exceed either 25 percent of the room's capacity, or 200, whichever is fewer; and
2. That there is adequate physical distance among those participating in the meeting and those attending it

Therefore, the number of district personnel attending a board meeting who are considered to be “staff” who are excluded from the occupancy calculation should be kept to a minimum.

As always, you might need to consult with your district's legal counsel to resolve specific questions or concerns.

Policy & Legal News is published quarterly by the Washington State School Directors' Association to provide information of interest to school directors and the education community. The views expressed in opinion articles appearing in *Policy & Legal News* are those of the writers and do not necessarily represent WSSDA policies or positions. © 2020-2025 Washington State School Directors' Association. All rights reserved.

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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.


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The Editor would like to thank the following people for their contributions to this issue:

Anthony Anselmo, J.D., Stevens Clay, P.S.; Mathew Barber, J.D., Office of Attorney General; Tammy Bolen, Office of Superintendent of Public Instruction (OSPI); Laurie Dils, M.S., OSPI; Mike Donlin, School Safety Center; Joshua Lynch, OSPI; and Shannon Thissen, OSPI.

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