

Policy & Legal News

HELPING SCHOOL DISTRICTS TRANSLATE LAW INTO ACTION

A photograph of two young women sitting in a classroom. The woman on the left has long blonde hair and is wearing a black denim jacket over a grey shirt. She has her hand on the knee of the woman on the right. The woman on the right has long dark hair and is wearing a grey patterned sweater over a black top and blue jeans. She has her hand to her face, looking down with a thoughtful or sad expression. The background is a blurred classroom setting.

Title IX: A SHIFT IN FEDERAL REGULATIONS



AUGUST 2020

WASHINGTON STATE SCHOOL
DIRECTORS' ASSOCIATION

Financial Aid
Advising Day

Limiting Immigration
Enforcement

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."

How are you holding up school directors?

I think of author Annie Dillard's words, "I am a frayed and nibbled survivor in a fallen world, and I am getting along. I am aging and eaten and have done my share of eating too." You might be feeling something comparable. School board directors are under immense pressure right now, including pressure from understandably confused, frustrated, and scared constituents. As I write, the radio is playing a song with the lyrics, "Life is confusing and people are insane." Nearly seven months have passed since Washington's first confirmed case of COVID-19. It is tough to stay clear headed and lead right now.

With all you have on your plate as we start a new school year, your ongoing work revising and adopting board policy should be the least stressful of your tasks. We hope *Policy & Legal News* empowers your board to approach policy revision with clarity, knowing the background that informs and the vision that inspires the policy work you do. This edition focuses on the policy revisions required *right now*. Of particular note, please see the Title IX article and prioritize the revision of your sexual harassment policy to reflect the federal changes.

Other policy revisions are based on state legislation. As I'm sure you've noticed, our Legislature has enormous impact on board policy. Likewise, school board directors should have enormous impact on the legislation passed. To that end, please plan on attending WSSDA's first ever [General Assembly](#) on September 25, 2020 to establish the Permanent and Legislative Positions that reflect your values and the advocacy your board needs.

Finally, we are all a bit frayed in these unprecedented times, but when we have clarity, we can move forward with both strength and a measure of serenity. As Henry Kissinger said "The task of the leader is to get their people from where they are to where they have not been." Please know that your leadership now, on your board, in your community, and in our state, can make a positive difference for students.

Thank you, school board directors, for what you do.



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

Policy & Legal News

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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

- **2255/2255P**–Alternative Learning Experience Courses
- **3120/3120P**–Enrollment
- **3144/3144P/3144F**–Release of Information Concerning Student Sexual and Kidnapping Offenders (RETIRED)
- **3205/3205P**–Sexual Harassment of Students Prohibited
- **3510/3510P**–Associated Student Bodies
- **4300/4300P**–Limiting Immigration Enforcement
- **4314/4314P**–Notification of Threats of Violence or Harm (RETIRED)
- **6112**–Rental or Lease of District Real Property

ENCOURAGED

- **3143**–District Notification of Juvenile Offenders
- **3535**–Financial Aid Advising (NEW)

DISCRETIONARY

- None

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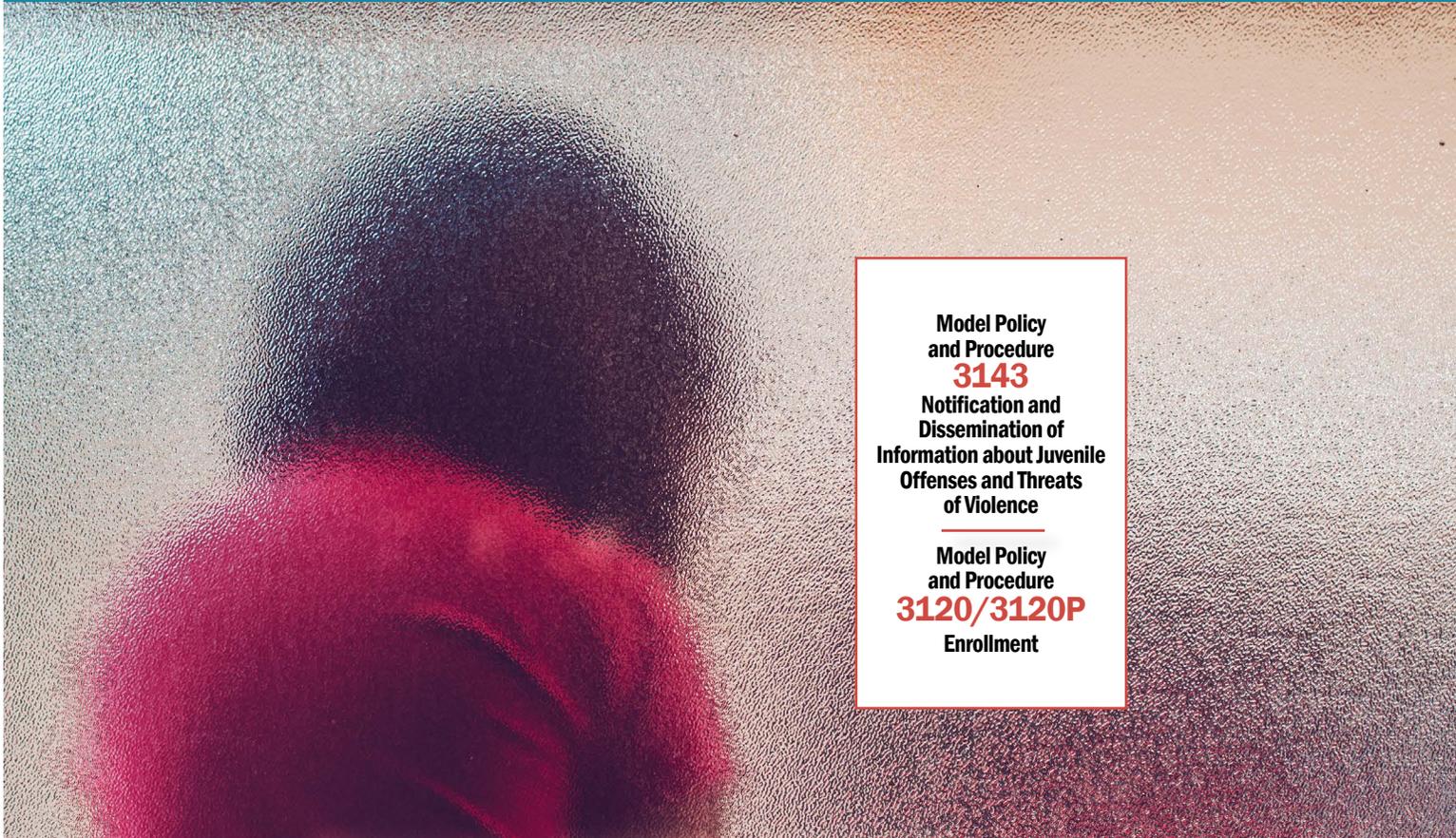
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- **3000 Series**
- **4000 Series**
- **6000 Series**



AUGUST 2020

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.”

WASHINGTON STATE SCHOOL
DIRECTORS’ ASSOCIATION



**Model Policy
and Procedure
3143
Notification and
Dissemination of
Information about Juvenile
Offenses and Threats
of Violence**

**Model Policy
and Procedure
3120/3120P
Enrollment**

When students have committed a juvenile offense

In 2018, the August and December issues of *Policy & Legal News* featured articles about model policy revisions based on a State Auditor's Office (SAO) performance audit that examined what happened when principals and districts received notifications of student criminal offenses. **During the 2020 legislative session**, lawmakers responded to lingering issues identified by the SAO audit. This was welcome news because comprehensive improvement required more holistic statutory changes, including revising several statutory requirements that previously had the potential to confuse staff, stigmatize students, and increase the likelihood that important information would go unnoticed.

Background

During the past two decades, our Legislature has passed several bills that required courts, state agencies, and county sheriffs to notify schools and districts of student criminal offenses.

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- In 1995, the Department of Social and Health Services (DSHS) - Juvenile Rehabilitation Program was required to notify school districts before releasing juveniles from custody or transferring them to community facilities.
- In 1997, the courts were required to notify school principals when minors who were enrolled in public schools were found guilty or entered into diversion agreements for any of a long list of crimes. Diversion agreements are voluntary contracts between students and courts, with specific requirements, such as community service and counseling, that students must meet to have the charges dismissed. The list of crimes included violent offenses, sex offenses, inhaling toxic fumes, liquor violations, possession of firearms and dangerous weapons, kidnapping, trafficking, harassment, and arson.
- In 2006, anyone required to register as a sex offender was also required to notify the county sheriff before enrolling in a public or private school. The county sheriff was then required to notify both the school district and the principal of the student's chosen school.
- in 2011, the Department of Corrections (DOC) was required to notify school districts before the DOC released or transitioned to partial confinement anyone younger than 22 who had committed violent, sexual, or stalking offenses.

Similarly, over the past few decades, our Legislature passed various bills requiring districts and school principals to take actions based on receiving information about a student's juvenile offense. An important component of these actions was appropriately disseminating that sensitive but potentially crucial information.

SAO performance audits

In May 2018, the SAO issued a performance audit examining whether state agencies, courts, and sheriffs notified schools of registered juvenile sex or kidnapping offenders. That audit found gaps and breakdowns in the notification processes to schools. Courts and agencies acted immediately to remedy a number of identified issues. However, the report noted that the remaining barriers transcended the effort of the agencies and that statutory changes might be helpful. For example, the 2018 state law listed more than 330 different criminal offenses that courts were required to communicate to schools. If the courts, state agencies, and law enforcement fully complied with the requirements, this would result in about 11,000 notifications a year to schools, including notifications for students who were not going to

return to school at all, as well as notifications to schools that the students were no longer going to attend.

The SAO then began a second audit, this time examining what happens to the notifications after principals and district officials

received them. In August 2018, the SAO gave WSSDA some initial feedback, based on their interviews and site visits for the second audit. The SAO noticed that many of the principals interviewed reported concern and confusion about the scope of their duty to share information about students' criminal offenses. The concern was that principals did not want to violate students' confidentiality, and the confusion was the extent of their duty to share that information. For example, some principals were confused about whether they needed to share the information with all of the student's teachers. Some principals reported they might tell teachers that a specific student had a safety plan, without providing information on the student's criminal history.

2018 revisions to model policies

While the SAO audit was still ongoing, WSSDA's Policy & Legal staff took immediate steps toward supporting districts by revising two model policies. In November 2018, the SAO issued its [final report](#) on the school responses to notifications of student criminal offenses, noting that WSSDA had acted immediately to improve its model policies. With the information in the SAO final report, WSSDA staff made additional revisions to the model policies to support districts with compliance. This time, the revisions were to the policies governing student records. However, other issues identified in the SAO audit required statutory changes.

House Bill (HB) 1191 – Concerning School Notifications

During the 2020 legislative session, our Legislature passed HB 1191 – Concerning School Notifications to act on recommendations from the SAO audit and stakeholder workgroups. HB 1191 includes several helpful provisions. As mentioned, state law previously required notifications even when students were not going to return to school, as well as notifications to schools the students are not going to attend. HB 1191 modified the notification obligations both on the part of the agencies providing districts and schools with notice and on the part of districts and schools receiving the notice. As modified, notification requirements no longer include former students who are now over 21 or who have already received a high school diploma or students between 18 and 21 who have not indicated they will enroll in an educational program.

**Model Policy
and Procedure
3143**

**Model Policy
and Procedure
3120
3120P**

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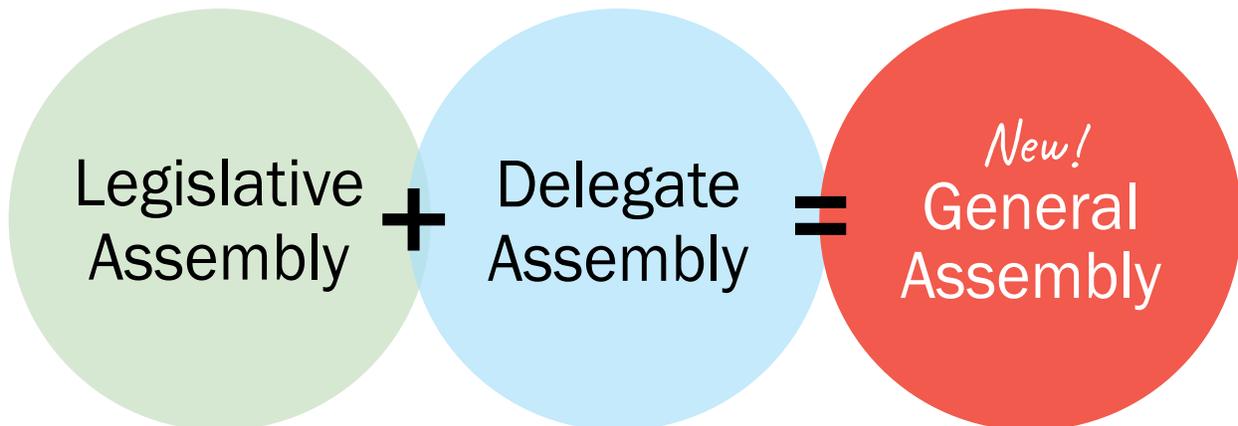
Other provisions of HB 1191 address the sensitivity of information regarding student juvenile offenses. For example, the information included in the notification process is no longer subject to disclosure under the Public Records Act. Another example is that HB 1191 provides students and/or their parents the opportunity to appeal a principal's decision to share with teachers and other school staff information of a student's controlled substance violation. This right to appeal applies only to violations of controlled substances. The district superintendent hears the appeal and makes the final determination. This provision is intended to assuage concerns about the deleterious effect that notification can have on a student's relationships with teachers and the potential to impair a student's scholastic career.

HB 1191 called for WSSDA, in consultation with several stakeholders, to revise its model policies. We invited representatives from organizations on behalf of educators, classified staff, principals, district administrators, law enforcement, violence prevention and intervention, free legal services for youth, student discipline, and the state auditors who performed the audits that sparked the legislation to work with us. Many thanks to all of those who participated on the workgroup.

Based on the workgroup's observations and the need for a comprehensive, cohesive approach, WSSDA created one, new model policy and procedure by merging the content of former Model Policy 3143–District Notification of Juvenile Offenders; former Model Policy, Procedure, and Form 3144/ 3144P/ 3144F–Release of Information Concerning Student Sexual and Kidnapping; and former Model Policy and Procedure 4314/4314P–Notification of Threats of Violence or Harm. The new document is titled **Model Policy and Procedure 3143–Notification and Dissemination of Information about Juvenile Offenses and Threats of Violence**. This new version of 3143 is retitled and reclassified as an Essential policy. WSSDA is retiring Model Policy, Procedure, and Form 3144/ 3144P/ 3144F and Model Policy and Procedure 4314/4314P. WSSDA has also revised **Model Policy 3120–Enrollment**, which is an Essential policy to reflect HB 1191.

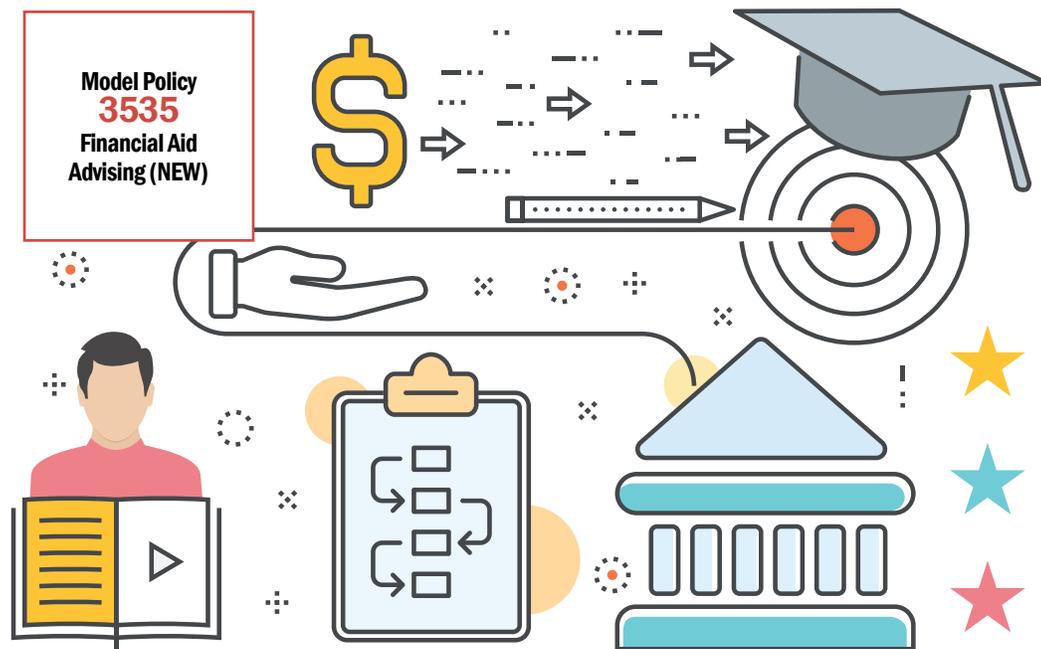
**Model Policy
and Procedure
3143**
**Model Policy
and Procedure
3120
3120P**

 **WSSDA September 25: live, virtual, FREE!**



Voting on the adoption of WSSDA's permanent and legislative positions just got easier with a new, revised, all-in-one General Assembly.

Join the assembly 8 a.m. Sept. 25 at wssda.org/GA



Washington's **NEW** financial aid advising day

By: Sarah Weiss, Associate Director of College Access and Support, Washington Student Achievement Council, sarahwe@wsac.wa.gov

Financial aid matters. Nationally, seniors who complete a financial aid application are 84% more likely to enroll in postsecondary education. The rate is even higher for students from lower-income families.¹ From an apprenticeship program to a two- or four-year college degree, education beyond high school prepares students for jobs that move them beyond minimum wage. Even a one-year credential program at a community or technical college can increase future earnings.

Districts across Washington have an exciting opportunity to provide students with new support by sharing critical information for planning life after high school. Financial aid advising days, created with the passage of [ESSB 6141](#) in

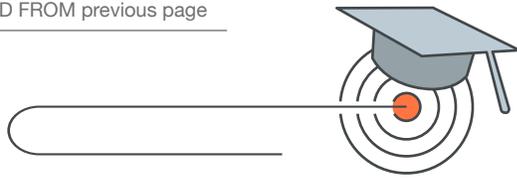
the 2020 legislative session, are an opportunity to focus on educational equity related to students pursuing postsecondary education.

You may have heard the word “equity” frequently used lately. It is a critical lens to ground our support of students in their educational pursuits, especially when we are talking about access to postsecondary education. Last year, the Legislature passed [E2SHB 1599](#), which took steps to expand access to critical financial aid information for students through the High School and Beyond Plan. Financial aid advising day provides an opportunity to take this important work one step further by ensuring all students have specific access to this critical information.

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¹“National FAFSA Completion Rates for High School Seniors and Graduates—National College Access Network.” Accessed October 31, 2019. <https://collegeaccess.org/page/NationalFAFSACompletionRatesforHighSchoolSeniorsandGraduates>.

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What is a Financial Aid Advising Day?

A financial aid advising day is a day (or series of days) occurring by December 1 of each year, which includes, but is not limited to, dedicated time during regular school hours for staff to:

- Provide information to twelfth-grade students on the free application for federal student aid (FAFSA), the Washington application for state financial aid (WASFA), and the College Board's CSS profile;
- When appropriate and possible, assist twelfth-grade students in completing the FAFSA and WASFA;
- In conjunction with the Washington Student Achievement Council (WSAC), distribute information on the Washington College Grant and demonstrate the use of the college financial aid calculator.

**Model Policy
3535
Financial Aid
Advising (NEW)**

Financial aid advising days are an opportunity to provide every senior and their family with key resources and knowledge for completing the financial aid application process. Access to this support is especially important for seniors who come from communities that have been historically underrepresented in higher education institutions.

This support is truly invaluable to young people in all our communities, especially during these unprecedented times. Many districts across the state may already be leading in this endeavor by offering financial aid support opportunities similar to the requirements of a financial aid advising day, which is great!

Financial Aid Advising Days and the Washington College Grant

The Washington College Grant changes the conversation with young people and expands their choices concerning access to opportunities after high school. From welding to nursing, from English to computer science — whether an 18-month apprenticeship or four-year college degree — whatever the student's goal, the Washington College Grant can help. By fully funding this program, expanding eligibility criteria, and extending funding to registered apprenticeships, the Washington College Grant is Washington state's groundbreaking commitment to provide access to financial aid for low- and middle-income people of all ages.

The first step towards accessing the Washington College Grant and other forms of financial aid is completing a FAFSA or WASFA. Applying for financial aid is also a key predictor of enrollment

in postsecondary education. Get to know your district's FAFSA completion rates at www.wsac.wa.gov/fafsa-completion

Have No Fear—the 12th Year Campaign is Here

Washington ranks low in financial aid application completion — 48th in the country as of July 2020. However, schools that participate in WSAC's 12th Year Campaign have a completion rate of 11 percent higher than schools that do not participate in this state-sponsored support program. The 12th Year Campaign boosts college and financial aid application rates in Washington by helping those working with high school seniors and their families to complete college admissions and financial aid applications. 12th Year Campaign sites receive free training, printed and digital materials, and other resources to support their students. WSAC is preparing to increase the number of sites utilizing these supports as we work with the Office of Superintendent of Public Instruction (OSPI) to coordinate a financial aid advising day opportunity in every district that has a high school.

The 12th Year Campaign's newly designed website is a one-stop shop for districts implementing financial aid advising days and the financial aid information components to the High School and Beyond Plan. Visit www.wsac.wa.gov/12th-year-campaign to access all that the 12th Year Campaign can offer. The supports of the 12th Year Campaign can be provided virtually, or with hard copy materials, in these unique times to ensure all students receive the information they need.

Let's Do This!

While WSAC and OSPI staff are currently collaborating with WSSDA to develop the guidance and resources to help districts implement the new financial aid advising day initiative, WSAC's 12th Year Campaign will be your district's primary support system. Please contact us with any questions, concerns, or to schedule a planning session. We are here to help you support the students in your communities to access their postsecondary dreams.

ABOUT THE AUTHOR

Sarah Weiss serves as the Associate Director of College Access and Support at the Washington Student Achievement Council. She previously served as the Director of Admission at Saint Martin's University and in several admissions roles at Southern Oregon University. She also served as the Membership Chair for the Pacific Northwest Association for College Admission Counseling. Sarah holds a BA from Willamette University and a MA in Higher Education Administration from the University of Nebraska-Lincoln. She is also the proud daughter of a former school director!



New Title IX Rules:

A shift in federal regulations

Title IX of the Education Amendments Act of 1972 prohibits exclusion from education, denial of the benefits thereof, or discrimination under any education program on the basis of sex by any entity receiving federal financial assistance. In November 2018, the U.S. Department of Education, Office for Civil Rights (OCR) proposed new regulations governing sexual harassment under Title IX.¹ WSSDA, along with many other organizations, provided comments and feedback on the proposed regulations highlighting several issues and concerns. On May 6, 2020, almost one-and-a-half years later, OCR issued the final [Title IX regulations](#).

These final regulations represent a significant federal shift governing K–12 public schools' response to allegations of sexual harassment. There are many changes under the final regulations. Some of the more significant changes include that the federal regulations narrow the definition of sexual harassment, establish a lower standard for when a district must respond, and add more components to the process of responding. Let's take a closer look at these one at a time.

Narrowing the definition of sexual harassment

The first change of note is the narrowed definition of sexual harassment. Previously, OCR Guidance set a standard for

¹The scope of the new federal regulations is limited to sexual harassment. The new regulations do not address or change a school district's obligations for other types of sex or gender-based discrimination, such as sex equity in athletic programs or access to courses and programs. ²See definition of Sexual Harassment at 34 CFR § 106.30(a).



Model Policy
and Procedure
3205
3205P
Sexual Harassment
of Students
Prohibited

behavior that qualified as sexual harassment, but the Title IX regulations themselves did not refer to or define sexual harassment. In contrast, these new Title IX regulations specifically define sexual harassment as conduct on the basis of sex that satisfies one or more of the following types:

- Behavior that meets that of sexual assault, dating violence, domestic violence, or stalking as defined in federal statute;
- Behavior by a district employee engaging in “quid pro quo” sexual harassment, meaning conditioning a service or benefit upon the student’s engaging in unwelcome sexual conduct; or
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, **and** objectively offensive that it **effectively denies** a person equal access to the district’s education program or activity;²

The definition of the last type of sexual harassment, just above, narrows what constitutes sexual harassment from the previous federal guidance. Compare the bold, italicized words just above (the new standard) with the previous standard:

- Unwelcome conduct
- Determined by a reasonable person
- To be severe, pervasive, **or** persistent, and to **interfere with or limit** a student’s ability to participate in or benefit from school services, activities, or opportunities

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The difference between the bold, italicized wording means that fewer behaviors fall within the definition of sexual harassment.

Lowering the standard for response

The next change to highlight is the standard districts must meet in their response to an OCR investigation. Previously, OCR set the standard for a district's response to sexual harassment as responding "promptly and effectively." The new federal regulations lower the standard to whether a district's response was "deliberately indifferent." A district is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.³ Deliberate indifference requires an official decision to refuse to act and not to remedy a violation. Being deliberately indifferent is more than being negligent, inept, erroneous or making ineffective decisions, actions, or omissions.

Importantly, if a school district is a party to federal litigation, federal courts have traditionally used the deliberately indifferent standard. This was because monetary damages were being litigated, meaning there was more at stake; therefore, more egregious inaction was required for a plaintiff to prevail. Now an OCR investigation and litigation use the same standard.

Creating more components to grievance procedures

To qualify as a formal Title IX complaint, an allegation must meet several requirements.⁴ However, if an allegation meets the requirements of a formal Title IX complaint, the Title IX regulations require a new and prescriptive grievance process. There are too many components to list, but the federal grievance process includes several specific due process requirements, including providing written notices to parties and witnesses. The process also includes an

**Model Policy
and Procedure
3205
3205P**

opportunity for each party to review relevant evidence and an opportunity for each party to review the investigative report and submit written questions to the other party or witnesses before a final determination is made.⁵

In addition to following a prescribed and detailed grievance process, there are also extensive record-keeping and retention schedule requirements required for formal Title IX complaints. In short, you should be aware that complying with these regulations will require considerable effort for districts.

Responding to sexual harassment under both state and federal laws

Washington, like many states, has its own laws and regulations that address sexual harassment, nondiscrimination, and student discipline. Because Washington law defines sexual harassment,⁶ specifies the standard for sufficient response,⁷ and specifies a grievance process,⁸ Washington school districts⁹ may not exclusively use the Title IX regulations to guide their response to allegations of sexual harassment. Instead, districts need to comply with state law while implementing the new Title IX regulations.

This means that when a district receives a formal sexual harassment complaint under Title IX, the district must provide all the components in the federal regulations as part of its grievance process. For complaints of sexual harassment that do not meet the formal complaint standard under Title IX, districts continue to follow Washington's grievance process. OSPI has stated it will continue to apply the preponderance of evidence standard in determining whether a school district has complied with the state grievance process. Please note, districts do not choose which grievance process to use. Rather, districts determine when they need to add the additional federal requirements based on whether an allegation meets the definition of a formal Title IX complaint (see footnote 4 for definition).

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³34 CFR § 106.44(a) ⁴See the definition of a formal complaint at 34 CFR §106.30(a). A formal complaint must be filed by the victim (the complainant) of the alleged sexual harassment (or their parent or legal guardian) or by the Title IX coordinator. The complaint must request the district investigate allegation(s) of sexual harassment (specifically, conduct that meets the definition of Title IX sexual harassment) against a named individual (the respondent) who, at the time of the alleged harassment, was under the control of the school district (such as a student, employee, or volunteer). At the time of filing the formal complaint, the complainant must be participating in or attempting to participate in the school district's educational program or activity. ⁵See 34 CFR § 106.45. ⁶RCW 28A.640.020. ⁷WAC 392-190-0555. ⁸WAC 392-190-065 through 392-190-0751, outline Washington State's grievance procedure. ⁹Federal and state nondiscrimination requirements also apply to Washington's public charter schools and tribal compact schools..

**Model Policy
and Procedure
3205
3205P**

Student Discipline & IDEA

The Title IX regulations prohibit disciplinary sanctions against a student alleged of sexual harassment until the district has completed the federal Title IX grievance process and determined the student was responsible for the sexual harassment.¹⁰ However, supportive measures that are not sanctions, such as counseling, modifications of class schedules, mutual restrictions on contact between parties, and increased security and monitoring of certain areas at school are permissible.¹¹

Additionally, this federal limitation does not preclude a student's emergency removal under Washington's student discipline rules for emergency expulsions,¹² provided the district undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the student with notice and an opportunity to challenge the decision immediately following the removal.¹³

The federal Title IX regulations do not modify any rights under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973. In particular, districts are still obligated to conduct a manifestation determination before a student who is eligible, or deemed eligible, for special education or Section 504 services is removed from school for 10 school days or more.

Designating and training a Title IX Coordinator and other staff

Although designating a Title IX coordinator is not a new requirement, the federal regulations limit who may serve in that role. Specifically, the regulations prohibit the Title IX coordinator from being the same person as the decision-maker in a formal Title IX sexual harassment complaint. This is important because Washington's grievance process designates the district superintendent, or their designee, as the decision-maker in a discrimination complaint. This means that if your district previously designated the superintendent as the Title IX coordinator, your district needs to change that designation to a different staff member, and update the district's nondiscrimination notices with the correct contact information.

Additionally, the federal Title IX regulations require training for multiple staff members, including Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Further, the regulations require that districts make all training materials used publicly

available on their website or available for inspection, if the district does not maintain a website.

Interim Revisions

WSSDA has revised **Model Policy and Procedure 3205/3205P–Sexual Harassment of Students**

Prohibited to reflect the federal Title IX regulations as well as our existing state laws. This is an Essential policy. As you might have guessed, studying the new federal regulations and harmonizing the federal and state requirements has been a challenging exercise. Given that the federal regulations became effective August 14, 2020, please proceed with board deliberations as quickly as possible. We recommend that your board consider waiving first reading before adoption.

As we go to press, we are still waiting to hear whether the courts will grant injunctive relief, blocking the federal Title IX regulations from taking effect while the lawsuit filed by Washington's attorney general proceeds. Even if injunctive relief is not granted, Washington may yet prevail in the lawsuit. Therefore, we consider these revisions interim while we continue to study and monitor the legal landscape.



¹⁰34 CFR § 106.44(a). ¹¹See definition of Supportive Measures at 34 CFR § 106.30(a). ¹²WAC 392-400-510 through WAC 392-400-530. ¹³34 CFR § 106.44(c).

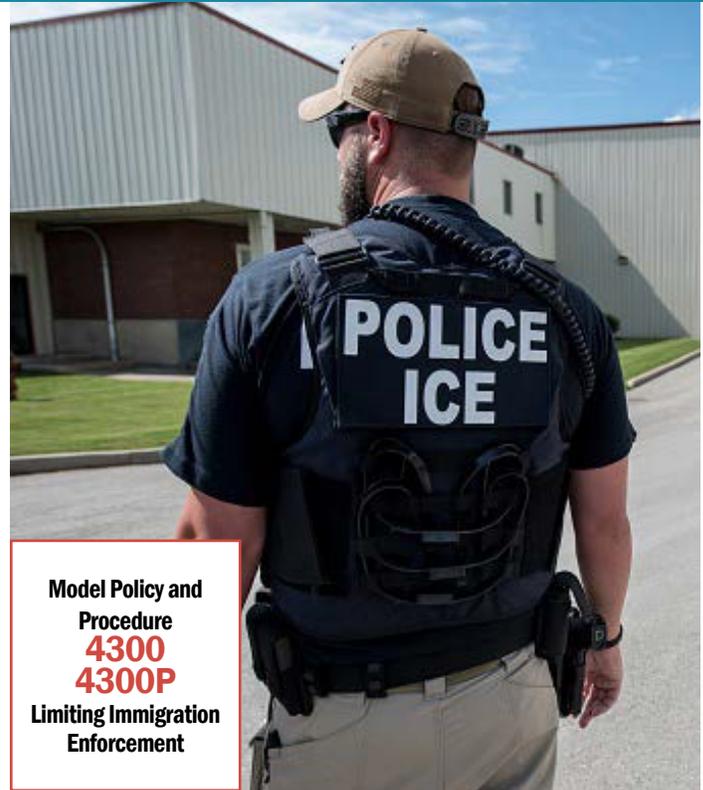
Schools are not the place for immigration enforcement

In 2019, our Legislature passed Senate Bill (SB) 5497—Establishing a Statewide Policy Supporting Washington’s Economy and Immigrants’ Role in the Workplace, also known as the Keep Washington Working Act. **The purpose of SB 5497 is to ensure the state of Washington “remains a place where the rights and dignity of all residents are maintained and protected in order to keep Washington working.”**

SB 5497 required Washington’s Office of Attorney General (AGO) to develop guidance for limiting immigration enforcement to the fullest extent possible and permissible at courthouses, publicly operated health facilities, shelters, and of particular note, public schools. Washington’s public schools are recognized as special institutions—and with good reason. Public schools have a legal and moral obligation to ensure that no one is denied the opportunity to succeed because of where they were born.

The legislation also took the unusual step of requiring the AGO to develop model policies for those same entities, including public schools. This past May, the AGO finalized its model policy limiting immigration enforcement and issued [Guidance, Model Policies, and Best Practices for Public Schools](#), which as the name suggests, includes guidance as well as a model policy for public schools. SB 5497 requires public schools to take one of two steps. The first option is to adopt changes to existing policies to make them consistent with the model developed by the AGO. The second option is to notify the AGO that no changes in policy will be adopted while giving the AGO the reasons for not adopting changes plus a copy of the district’s policies.

As you might be aware, there are existing WSSDA model policies that have similar provisions to those in the AGO’s



Model Policy and Procedure 4300 4300P Limiting Immigration Enforcement

new model, such as not allowing immigration enforcement immediate access, checking for a valid warrant, and contacting the superintendent if immigration enforcement arrives at school. These pre-existing model policies include Model Policy/Procedure 3226—Interview and Interrogations of Students on School Premises; Model Policy 4310—District Relationships with Law Enforcement and Other Government Agencies; and Model Policy 4311—School Resource Officer.

However, after carefully reviewing the AGO’s model policy, we found a number of instances in which the AGO model policy and procedure provide more detailed and proscriptive information about the boundaries separating public schools and immigration enforcement. For example, the AGO’s model included additional information about legal obligations not to cooperate with immigration enforcement officials and more directly express the district’s affirmative obligation to alert students and families about their rights.

Given these important differences, WSSDA is issuing new **Model Policy and Procedure 4300—Limiting Immigration Enforcement**, which exactly reproduces the AGO model in its entirety. Importantly, there is no conflict between this new policy and the pre-existing WSSDA model policies listed above. This means that there is no need to retire or revise any of these existing policies your board may have already adopted. Instead, by adding Model Policy 4300 to your policy manual, you will better protect the rights of your students and community and ensure your district fully complies with the law.

OTHER UPDATES

Policy 2255/2255P–Alternative Learning Experience Courses

Category: **ESSENTIAL**

WSSDA has updated this model policy and procedure to reflect recent revisions to the rules that govern Alternative Learning Experience (ALE). The revisions remove the requirement to obtain a parent or guardian’s signature documenting their understanding of the difference between home-based instruction and ALE. However, the requirement to notify families of the difference between home-based and ALE programs at the time of enrollment still remains. These rule revisions became effective August 10, 2020 with the exception of the truancy section, which defines truancy and a truancy protocol in ALE settings. The truancy section will take effect January 1, 2021.



Policy 3510/3510P–Associated Student Bodies

Category: **ESSENTIAL**

WSSDA has revised the model policy and procedure to address House Bill (HB) 1660 –Participation of Students Who Are Low Income in Extracurricular Activities. The legislation requires districts that collect fees for extracurricular participation to adopt a policy that includes provisions for both waiving and reducing such participation fees for students who are eligible for the Free and Reduce Price Meals program.

Policy 6112–Rental or Lease of District Real Property

Category: **ESSENTIAL**

WSSDA has updated this model policy based on HB 2617 – Lease or Rental of Surplus Property of School Districts. The revisions add a “recapture clause” to the lease or rental of district surplus property. Additionally, the revisions add an exception to the prohibition of weapons on district property when districts rent property that will be used as a personal domicile.



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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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