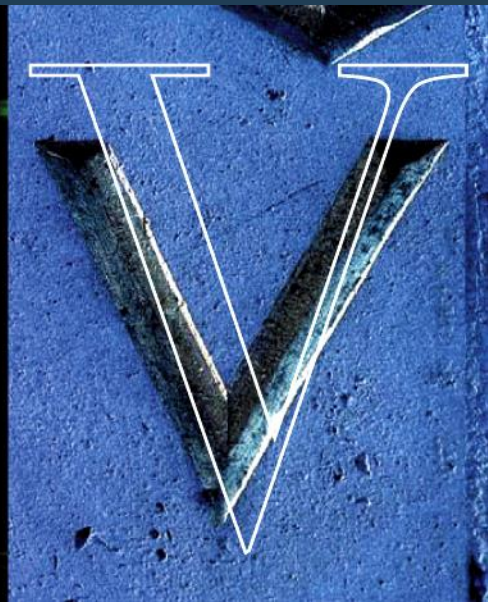
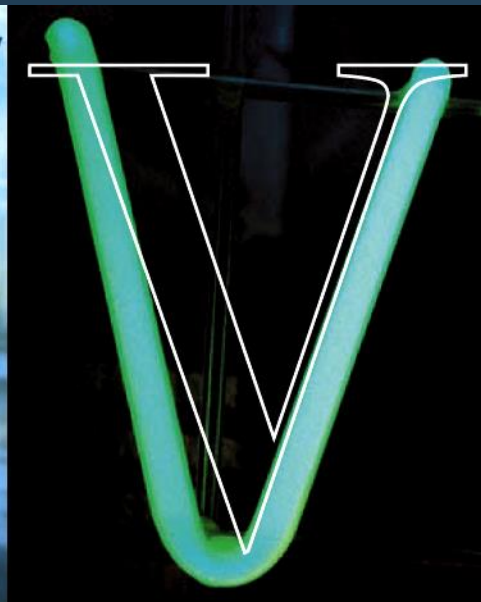
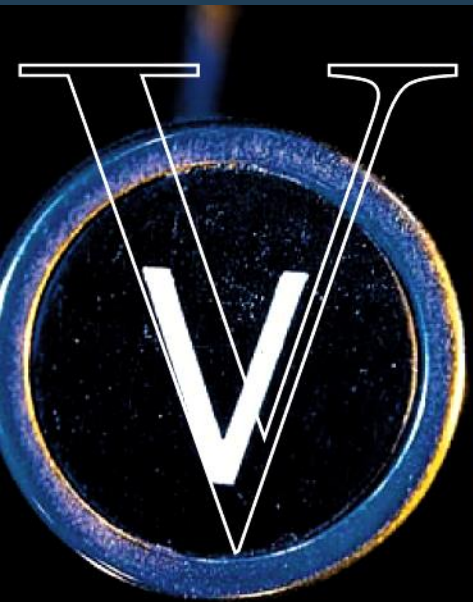


VENABLE[®]_{LLP}

legal review of
admissions policies and procedures

Caryn Pass, presenter

SSAT 2013



Basic Guidelines

- Culture and mission
 - Messaging to applicants
 - Consistent with culture and mission
- Check to confirm consistency with other school policies
 - Document retention and destruction policy
- Risk assessment continuum
 - Different decisions warrant different risk
 - Is the benefit worth the risk
- Consider state and federal law



Legal Exposure

- Failure to admit
 - Inconsistent or inappropriate factors
- Breach of Privacy
 - Failure to protect private information of applicant
- Refusal to pay tuition
 - Using admissions process as basis for refusal to satisfy tuition obligations
- Failure to protect community
 - Dangerous students or adults
- Failure to protect applicant
- Custody and divorce proceedings



Admissions Applications General

- Only collect information needed to make decision – “do I use this information...?”
 - No social security numbers
 - Asking for NAIS categories ok if right not to answer and description of reason
- Only parent/guardian writes on application
 - No writing by school
- Signature of parent/guardian at bottom of application below release
- Ask for “testing” or other reports
 - Set time period; i.e.. Performed within 5 years



Application Release

- Authorize school to pursue information
- Information true, accurate, and complete
- False, incomplete, omitted or misleading information given on application or during the application process may result in a refusal to admit or dismissal in the event of admission
- Applicant (parent) releases rights to view application documents/file
- Decisions based on a wide range of considerations
 - solely and exclusively determined by school
 - submission of application does not guarantee admissions



Application, Documents & Information

- Parents waive access to review any application materials (Subject to subpoena)
- Teacher recommendations
 - Only accept if parent waives right to review
 - (maintain copy, distributed through one source, release from parents)
 - Mailed/emailed from teacher to school
- Notes (Interviews, committee meeting, visit)
 - Caution in writing comments
 - Train parties to avoid inappropriate statements
- Transcripts
 - Sent directly from school
- Do not write on any application document (except notes)



Documents, Information & Process

- Parents waive access to review any application materials (Subject to subpoena)
- Teacher recommendations
 - Only accept if parent waives right to review
 - Mailed/emailed from teacher to school
- Notes (Interviews, committee meeting, visit)
 - Caution in writing comments
 - Train parties to avoid inappropriate statements
- Transcripts
 - Sent directly from school
- Do not write on any application document
- Communication with applicant or other minors
 - Texting, email, Facebook
 - Follow school policy



Online Application

- Must be drafted in compliance with federal and state laws
- Unenforceable if not in compliance
- Draft policy outlining process
- Process:
 - Notify this is online application
 - Option to submit paper copy
 - Confirm protected access to application
 - Allow for review of completed document before submission in final
 - Encourage print out of application
 - PDF copy sent to school



Enrollment Agreement

- Should include
 - Name of student, grade entering, school year, date to hold spot, date after which full tuition owed
 - Information provided during application process was truthful and complete
 - Costs resulting from document subpoena, testimony of teachers or other employees and legal fees owed by undersigned
 - Removal of student resulting from behavior of parents, guardians, or other minors or adults associated with a student
- Who signs agreement? Both or one parent



Breach of Privacy

- Share information only with authorized parties
 - Non custodial parents, lawyers, non parent spouse

- Obtain written permission from parent to speak to testers, teachers, consultants

- Maintain records and information in confidential manner
 - Receptionist's desk
 - Locked and secure
 - Protect access on computer network

- Avoid speaking about applicant
 - In public area
 - With those not involved in admissions process
 - With other parents or community members

- Discuss need for confidentiality with all members of the process



Protecting Community From Students

- Student injured by fellow student
 - If school had vetted applicant the risk would be discovered and student not admitted
- Education history (on application and in interview)
 - All history not just last 2/3 years
 - Reasons for departure
 - Carefully review dates of attendance (month and year)
 - Specifically inquire into any disciplinary issues
 - Inquire into gap in attendance
- Google and or Facebook search
- Previous School Recommendation Form
 - Teachers rarely know full story
 - Form completed by school administration
 - Reason for departure, allowed to return, disciplinary history, does transcript identify discipline, behavior
- Drug dealer case – Sold drugs at previous school, expelled, two students at new school purchased from him and became addicted



Protecting Community From Adults

- Parent, guardian or other related adult's access to school community resulted in injury
 - If school had vetted parent, guardian or other adult the risk would be discovered and either student not admitted or appropriate action to limit liability instituted
- Difficult issue
 - Message to applicant families
 - Impact on applicant pool
- Vetting considerations
 - Criminal Background check
 - Driving record
 - Sexual predator lists or websites
 - Google or Facebook searches
 - References from community members
 - Question on application:
 - Has either parent or other adult associated with this applicant been convicted of a crime involving inappropriate contact with a minor



Protecting Applicant

- Permission form completed prior to visit
 - Known allergies (bee sting, peanut butter)
 - Limitations in activities (asthma)
 - Who will pick up from school
 - If plan on using pictures, get waiver
 - Emergency contact information
 - Other emergency permission (waiver to treat)
- Share intent of visit and process
 - If applicant is interviewed during visit



Parent Issues

- Party completing application assumed authorized unless proven otherwise
- Don't second guess who has authorization
- Ask on application:
 - Who can receive information
 - With whom should the school communicate
 - signing parent, non signing custodial parent, non custodial parent, grandparent or guardian, non parent spouse
- Ask if there are custodial or family issues
- Don't report conversation with one parent to the other in situations of conflict



Parent Conflicts

- Do not get in the middle of dispute
 - Encourage parents to resolve dispute
 - Ask for custody or other documentation of status if conflicts between parents
- Don't speak with lawyers
- Challenges during application process
 - parents disagree as to whether child should attend
 - one parent completes application and second parent wants to see application
 - one parent completes application and second parent calls to say “don't process the application”
 - new spouse/significant other of parent



Document retention and destruction

- Parents increasingly requesting access to admissions documents
 - Custody battles, failure to admit cases
- Do not release without subpoena
- Create policy
 - Who should decide terms of policy?
 - What time period are admissions records kept
 - why do we maintain documents
 - how long are documents maintained
 - what documents are maintained
 - where do we keep them



Misrepresentation

- Acceptance based on misrepresentations
- School misrepresented through
 - Website, Facebook page,
 - Written materials
 - Teachers during student visit
 - Guides (especially parents)
 - Family mentors
 - During interview process
- Update details on website and in materials
 - Tuition especially
- Train everyone
- New York City Case
 - Parent requested full tuition refund alleging pre-school promised admissions to prestigious elementary school



