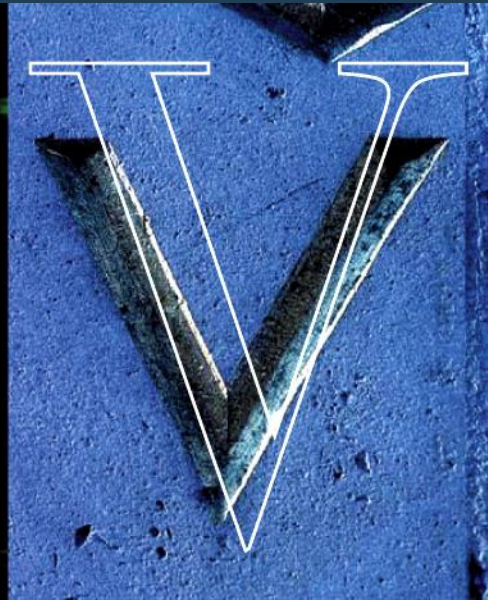
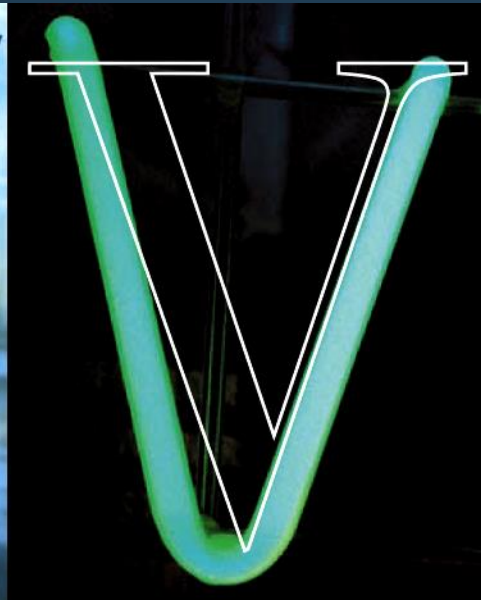
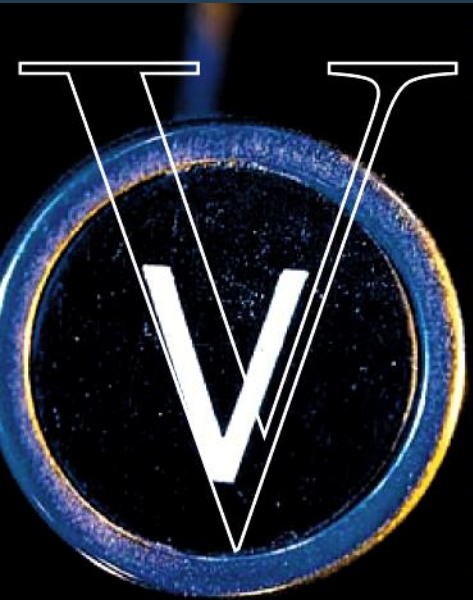


VENABLE[®]_{LLP}

Hot Legal Issues Facing Independent Schools:
Lessons from the Front Line

2016 ISAS Business Officers Conference
Caryn Pass, presenter



Topics:

- *Policies and Governance documents*
- *Changes to the FLSA (Wage and Hour)*
- *Alumni Allegations of Sexual Abuse*
- *Student Vetting*
- *Mandatory campus housing*
- *ERISA and deferred compensation plans: (what is Harry Atlas doing these days)*
- *Transgender and Gender Fluid Students*
- *Parent Vetting*
- *Business Manager's Review of Board's Compliance with Fiduciary Duty*



overview

- “Zero” risk is a myth
 - limit liability exposure by being proactive
 - policies, procedures and protocols that reduce risk
- risk assessment continuum
 - is the benefit worth the risk?
 - upsetting the parent to protect a student
 - electric fence
 - Expense of fence worth the protection it provides
- make certain to coordinate all documents
 - handbooks, enrollment contracts, applications
- culture is king
 - acting outside of culture is recipe for disaster
 - “acceptable behavior” in *OUR* school
- # 1 priority is safety and security of students
- failure to consider safety of students = negligence
 - tragedies nationwide place schools on “notice”
 - failure to address risk, resulted in injury



Policies and Governance documents

- Charter and articles of incorporation
- Bylaws
- Whistle blower policy
- Document destruction and retention policy
- Intermediate Sanctions Policy
- Audit Policy
- Investment Policy
- Conflict of Interest Policy
 - Process for vetting conflict
 - Disclosure of conflict
 - Annual execution by trustees, head and cfo

*Wise In The
School World*



Changes to the FLSA (Wage and Hour)

- Only impacts minimum salary requirement to qualify for exempt status
 - Salary basis payment for exempt status
 - \$913 per week; \$47,476 annually for a full-year worker
 - Effective date December 1, 2016
- Modification to law used as an explanation of why schools are making other changes
 - Employees currently misclassified can be corrected
- Time to prepare for pending modifications
 - Think about employment contracts of current staff
- Changes can be made consistent with culture of school
- Strategies for making change without creating total chaos



Preparation Steps and determinations

- Review positions currently classified as exempt
 - Do they meet the new salary basis minimum?

AND:

 - Do they meet the requirements of one of the classifications?
 - Can we modify their job to meet the requirements
 - If don't meet both = Overtime Eligible
- Determine how to pay the newly classified employees
 - Pay OT for all hours worked over 40 each week
 - Fluctuating work week
 - Weekly salary covers all hours worked in that work week
 - Over 40 hours worked paid additional ½ of hourly rate
 - Divide weekly salary by 40 to get hourly rate



Changing From Exempt to Non-Exempt

- Employees often “offended”
 - perceived as “unprofessional”
 - tracking time is often the issue
- Cost Benefit Analysis
 - law requires overtime payment to non-exempt employees
 - employees upset if status changed
 - financial liability for failing to compensate overtime
 - liability for cost of non-payment vs. employee morale
- Challenges
 - Retroactive or only going forward
 - Employees question why not retroactive
- Strategies for Change
 - Identify other changes planned (benefits, handbooks)
 - Roll out as one package
 - Sell as a positive
 - Consider using “overtime eligible” and “overtime not-eligible”
 - Use change in salary basis minimum



****Exemption Overview

- Employees covered by FLSA unless qualify under “exemption” category
 - **Non-Exempt** = *Not* exempt from overtime & other requirements
 - **Exempt** = Exempt from overtime & other requirements
- Non-Exempt (covered by the FLSA rules)
 - Compensated at minimum wage for all hours **worked**
 - Overtime for all hours **worked** over 40 in a workweek
 - Overtime calculated at regular rate of pay (not necessarily hourly rate)
- Exempt (not covered by the FLSA rules on overtime)
 - Qualifies under exemption category
 - Executive, Administrative, Administrative in Educational Establishments or Professional
 - Paid on salary basis
 - Minimum salary per week



***Three Part Test For Exemption

- 1. **Salary Level**
 - Currently paid at the minimum rate of \$455/week
 - New proposed rate is as high as \$900/week

- 2. **Salary Basis**
 - Paid the same amount each week regardless of the # of hours worked

- 3. **Duties**
 - Meet the qualifications of an exempt category
 - Executive, Administrative, Administrative in Educational Establishments or Professional (teacher)
 - Actual duties performed by the employee
 - Not just as described in the job description

- Factors that are not relevant
 - Has access to confidential information
 - Acts like a professional
 - Is the secretary for the board



***Executive Exemption

- **Paid on Salary Basis**
- **Primary duty**
 - managing the school, or a customarily recognized department or subdivision
 - Head of School
- **Direct**
 - two or more other full-time employees or the equivalent
 - four half times
- **Authority to**
 - hire, fire, advance, promote & change status given *particular weight*
 - “*Particular weight*”
 - part of the employee’s job duties to make such recommendations?
 - recommendations are made, requested, and relied upon?



***Administrative Exemption

- Paid on Salary Basis
- Primary duty
 - performance of office or non-manual work directly related to the management or general business operations of the School
 - work directly related to running or servicing of the School
- Must
 - exercise discretion and independent judgment on matters of significance
 - authority to compare, evaluate and make decision on matters of significance
 - more than applying well-established techniques, procedures or specific standards described in manuals or other sources



***Professional Exemption: Teachers

- **Salary Basis Not Required**
 - can dock in hour increments
 - can dock for leaving day before spring break begins
 - can dock if fails to appear on first day of orientation

- **Primary duty**
 - teaching, tutoring, instructing or lecturing in the activity of imparting knowledge in an educational establishment
 - caution if considering teacher's aids
 - does not generally perform above responsibilities
 - may be eligible for overtime



Alumni Allegations of Sexual Abuse

- Numerous reports by alumni around the country
- Boarding and non boarding schools
- Often dating back to the 70's
- Reporting by email, letter, calls, social media
 - Facebook, Survivors websites, blogs
 - Don't ignore signs, statements or whispers
- Boston Globe Article
 - Supposedly coming out on Sunday
 - Spotlight investigation now only one article
 - Survey to schools threats for failure to respond
- Read and keep up to date to be prepared
 - Learn about proactive strategies
 - Read “Great is the truth”
- There but for the grace of god go any of us
 - No one is immune; many of these still to come
 - We're a community, throwing stones hurts us all



Legal Claims and Considerations

- Statute of limitations
 - How long does the victim have to file a claim against the school
- Against School by Victim
 - Respondeat superior
 - School has responsibility actions of employees
 - Negligent hiring
 - School failed to properly vet employee pre-hire resulted in employment of dangerous individual
 - Negligent supervision
 - School failed to properly supervise employee
- By School against School for Recommendation
 - School relied upon positive recommendation
 - Failure to disclose inappropriate behavior
 - What should we do?
 - Employee you suspect but can't prove



Issues in Litigation

- Attorney Client Privilege
 - When materials, conversations, other actions are conducted in “anticipation of litigation”
 - Protects from disclosure to opposing counsel and other entities
- Document Hold
 - Once “potential for legal claim” suspected
 - Requires school to “retain” documents related to matter
 - Suspends “Document Retention and Destruction” Policy
- “Document Retention and Destruction” Policy
 - Establishes what should be retained and destroyed
 - Timeline for retention and destruction
- Old Documents
 - Where are they and what do you have
 - Yearbooks, personal files



Communications

- Consider Level of Transparency
 - May influence victims decision to file legal action
- Confirm all details prior to disclosure
 - Avoid breach of privacy
- Draft:
 - Letters to current and former parents, alumni, former non-graduating students, donors, other members of community
 - Letters to current and possibly former employees
 - Include instructions for speaking to press
 - Talking Points for Board
 - Press statement
- Notify Accrediting Association(s)
- Establish spokesperson
 - Consider message selection sends
 - Inside of school vs “professional spokesperson”



Steps to Consider

- Insurance
 - Notify current insurance provider
 - Determine insurance coverage at “time of abuse”
 - May need to hire “insurance investigator”
 - What coverage existed
 - Obtain copies of plans
 - Plan may also cover: Investigator, Crises Management Services, Additional Security to deal with press
- Report to Police and “child protective service”
 - Difficult if victim wants to stay anonymous
 - May or may not be “obligated” to report
 - Risk of non-reporting
- Create list of individuals that may have knowledge
 - Current and former employees at time of abuse
 - Board members at time of abuse
 - Other parties with knowledge of alleged abuser



Engaging Professionals

- Attorney
 - Represents the School
 - Employees may need to engage private attorney
 - Question of Knowledge of Abuse
 - Consider appointment by insurance
 - Who selects counsel
- Investigator
 - Conduct independent and complete investigation
 - School's knowledge of abuse
 - Abuse by other employees
 - Engaged by legal counsel (privilege)
 - No relationship to school, board members, other school employees, attorney for school
- Crises Management Firm
 - Can assist with strategy, press, communications
 - Engaged by Counsel



Review Policies and Procedures

- Policy On Reporting Abuse
 - To child protective services and or police
 - By parents, students, employees
 - Consider role and responsibility of school counselor
 - Internal reporting of issues
 - Central location that monitors concerns
- Policy on Internal Investigations
 - Procedure for conducting investigation
 - Maintaining interview notes and other documents
 - Drafting of investigation results
- Boundaries, behavior and standards of performance
 - Social Media, meeting students one on one, inviting students to home
- Conduct training of Employees, Students, Parents
- Procedures for supervising and evaluating employees



Hiring Procedures

- Carefully Review Entire Process
- Use Application
- Consider Central Oversight to Ensure Consistency
- Criminal Background Checks
 - State Obligations are floor
 - Include Social Security Check
- Sexual Offender Registries
- Loss of teaching license (Often method for addressing questions of abuse)
- References:
 - date and time of call, telephone number, name of reference, notes of conversation, if message was left
 - former employers and other non identified references
 - Any concerns or allegations of inappropriate contact with students
- Social Media Check



Notifying Without Allegation

- Victims ask:
 - “Why Now”? “Where Were You All Of These Years”
- Allegations of “Open Secret”
 - Assumption that adults were aware and did nothing
 - Lack of sensitivity and concern
- **Distribute letter indicating that:**
 - Not aware of allegation
 - In light of many claims reported in schools
 - In support and protection of community
 - Encourage the reporting of incidents of abuse
 - Engage Investigator to receive complaints
 - Notify of current policies and procedures for protection students
- Care given to other issues faced by school



Vetting of Students

- create safe and secure learning environment
- admit only safe students
 - vet applicants carefully prior to admitting
- consider physical plant and other locations students visit
- draft policies and procedures describing
 - appropriate student behavior
 - school expectations
- include:
 - whether school monitors behavior 24/7 or during school day/school activities
 - investigation process
 - disciplinary process including, hearing or due process procedure and appeals process
 - consequences of behavior
 - types of disciplinary action; reporting to college
- communicate clearly to students, parents and employees
 - in student handbook, enrollment contract and agreements with students
 - training, talking, reviewing, repeat



student vetting

- student injured by fellow student
 - student not admitted if properly vetted
 - school must carefully assess safety of applicant
- education history (on application and in interview)
 - all education history not just last 2/3 years
 - reasons for departure
 - eligible for return
 - withdraw or dismissed
 - agreement reached with school?
 - carefully review dates of attendance
 - day, month and year of attendance (September 5, 2016 to June 8, 2016)
 - not just school year (2015-2016 school year)
 - specifically inquire into disciplinary issues
 - what is considered “discipline” worthy
 - does school report to college
 - what type of discipline and basis for discipline
 - suspended for cheating
 - inquire into gap in attendance



additional student vetting

- Google, Facebook and other social media search
 - photos, links or other references
 - reflect upon student and will reflect upon school
 - a few schools ask applicants to log onto Facebook page
- teacher recommendations
 - teachers that know student
 - current teachers may not be best
 - ensure honest recommendation
 - parent and student waive access
 - only valid if signed by parent (over 18 student)
 - mailed/emailed or online directly from teacher
- administrator recommendation
 - fuller story on student
 - reason for departure, allowed to return, disciplinary history, discipline on transcript
 - speak to administrator if possible
- interview student
 - in person or via Skype



final student vetting

- interview student
 - in person or via Skype
 - make certain applicant is one that shows up at school
 - if on campus obtain details of applicant first
 - especially in boarding school overnight visit
- vetting especially important with international students
 - great candidates and important to many schools
 - more difficult to vet and greater exposure
 - students coming to states as a result of behavior in home country
 - often recommended by third party
 - We are responsible for conducting our own vetting
 - Relying on third party doesn't protect school
 - Confirm process used by third party
 - especially in home stay or non-boarding situations
 - may or may not be monitored as closely



policies and procedures

- when is behavior covered?
 - privilege not right to be member of community?
 - 24/7 or only during school day, at school activity or at school sponsored events
 - *allegations of sexual misconduct on international trips not sponsored by school?*
 - *drinking party on weekend*
 - *texting on student cell phone*
- expectation of student reporting
- identify and address behavior
 - behaviors of concern
 - sexual misconduct, rape, sexting, bullying, hazing, **drug/alcohol use**, other use of social media and technology (computers, cell phones)
- review every year
 - update for past experiences
 - include in student handbook, reference in enrollment contract, review with students verbally



policy details

- establish clear policies
 - code of conduct (including behavior expectations)
 - establish time and location coverage
 - what are the school's conduct expectations
 - acceptable use policy (social media policy)
 - use of technology both school/personal
 - what is acceptable related to posting on social media
 - posts of a sexual nature, bullying abuse or inconsistent with values of school
 - honor code
 - disciplinary procedure
 - types of discipline
 - investigation process
 - due process review & appeal process
 - Student committee? Administrative/teacher committee? Board?



overnight trips: local and international

- establishing a clear program that establishes process for designing a trip
 - from start to finish
 - make sure every trip follows the guidelines
 - communicating expectations clearly
 - does discipline apply during the trip
 - does school hold students accountable for their behavior while on trip
 - identify points of risk
 - sleeping arrangements
 - camping arrangements
 - home stays
 - times students are on their own unsupervised
 - when drinking is allowed
 - chaperone student ratio
 - vetting of school partners and policies of the school related to student behavior



Mandatory campus housing

- Value of housing is taxable income unless:
 - *provided for benefit/convenience of the school*
 - connection between housing and business
 - business of boarding school is education and housing of students and support activity
 - *condition of employment*
 - must live on campus to properly perform job
 - more than just stated in contract
 - considerations:
 - similarly situated employees reside on campus?
 - still be employed if moves off campus?
 - » dean of students lives on campus but moves off after acquires housing second year of contract
 - *located on school's campus*
 - on property that is an integral part of campus
 - far end of campus harder to justify “convenience” of school (i.e. farm house if not overseeing farm)
 - mere ownership is not sufficient (i.e. purchased by school but adjacent to campus)



Non-“mandatory” housing

- If employee receives qualified campus housing that doesn't meet exemption criteria (mandatory/school benefit/on campus)
 - value of housing not considered taxable income provided:
 - employee pays rent that is (at least) equal to the lesser of:
 - a) 5% of the **appraised value** of the qualified campus lodging, or
 - b) the average rent paid by individuals (other than other employees or students of the school) to the school for comparable lodging.
- If employee receives the residence rent-free, lesser of (a) or (b) included in gross income
- Include value of housing in gross income
 - Require employee to pay taxes on value of housing
 - Gross up value of housing to cover tax
- Rental agreement and or include in employment agreement
- Failure to appropriately characterize housing benefit
 - payment of back taxes on value of housing, penalties, interest



Head of School Housing

- **Must meet “mandatory criteria”**
 - Housing on campus, condition of employment, benefit/convenience of the school
- **Benefit of school: regular use for entertaining or other school activities**
 - Meetings with faculty, staff or students
 - Entertaining parents, donors, “friends of the school”
 - Fundraising events
- **Track use by head of school**
- **Include details in HOS employment agreement**
 - Describe “mandatory criteria”
 - Timeline for removal of head in various conditions
 - Termination with cause, without cause, death, disability
 - Not “lease” or “rental” relationship;
 - Consider if head and spouse divorce (spouse may have rights to housing pursuant to court order)



Language for Employment Agreement

- **General Criteria:**
 - As a condition of employment, Educator will be required to live on campus in the housing (“Campus Housing”) provided by the school in order for Educator to properly perform the responsibilities of his/her position.
- **Removal of Employee After Termination:**
 - If Educator’s employment ends for any reason or, in the sole discretion of the School on campus housing is no longer appropriate, he/she will/may be required to vacate Campus Housing within X days of the last day of employment.
- **Who May Live In Campus Housing:**
 - Only the Educator may live in Campus Housing under this Agreement unless permission is given in writing by a School authorized agent to allow an individual other than the Educator to live with the Educator. Such permission may be revoked by the School at any time for any reason as determined by the School in its sole discretion and the individual will be required to vacate Campus Housing.
- **NON MANDATORY HOUSING: (CONFIRM WITH STATE LAW)**
 - Educator agrees and acknowledges that this Agreement does not serve as a lease or give Educator a leasehold estate. Neither Educator nor any individuals living with Educator in Campus Housing is/are tenants of the School. Employee waives in his/her behalf and those that may reside with him/her in Campus Housing any and all notices to vacate the Campus Housing as may be required by the law.
 - (CONSIDER ENTERING INTO A LEASE AGREEMENT)



ERISA and deferred compensation plans: what is Harry Atlas doing these days

- Complying with 403(b) plan documents
 - Time to do a review to determine plan requirements
 - Check to confirm compliance with plan documents
 - If permission to participate starts upon employment can't defer to three months of tenure
 - Establish correction strategy if violation of plan
 - Must provide same benefit to all employees uniformly

- Use of 457(b)
 - Unlike in 403(b) there is **NO CATCH UP** for over 50
 - Only highly compensated can participate
 - Employer or employee can contribute
 - **TOTAL** amount can not exceed \$18,500 (2016)

- Use of 457(f)
 - Once Employee vests full amount of funds must be considered taxable income
 - Can defer payout but not treatment as taxable income



Transgender and Gender Fluid Students

- First lawsuit filed by parents and 18 year old student
 - Refusal to allow entry to girls bathroom
- Evolving on a daily basis
 - Recent bathroom cases encouraging challenges in independent schools
- Students self identifying as:
 - transgender, gender non-conforming, gender fluid
other gender based identities
- Identifying at younger ages (Kindergarten common)
- Acceptance implies creation of safe space
 - Fully and safely incorporate into the school community
- Culture and mission critical to strategy
 - Religious schools
 - Single sex schools
- Board and parents highly involved
 - Strong feelings impact actions
 - Pants suit vs Neiman Marcus Selected Dress =
Termination of HOS



Legal Claims

- Title VII doesn't apply (Not accepting federal funds)
- Violation of Human Rights
 - Discrimination based on gender
- Bullying
 - Failure to address student, faculty, staff and parent behavior
 - Not invited to parties, play dates
 - Statements by teachers (“he/she or whatever you are today)
- Failure to take actions ensuring safe space
 - Physical facilities
 - Treat students based on his/her self identified gender
 - Training and educating faculty and staff
 - Educating parents, students, members of community
- Failure to educate
 - hostile environment prevented student from receiving an education
- Misrepresentation and detrimental reliance
 - claims of welcoming, open, accepting environment inaccurate
 - return of tuition; payment of other expenses including counseling



Names, Pronouns, Records etc

- Student selected name of choice
 - what is the name chosen by the student?
- Dress code/style chosen by student
- Sports teams and participation
 - does student play on team of gender of choice or gender of birth?
 - school's position
 - regional, league or other regulating entity
- Student selected pronoun: He, she, it, they, them
- Use of name in written format (birth name or selected name)
 - “Official/Legal” documents – Transcripts, birth certificate, Medical Records, ACT/SAT
 - “Non-official” documents – Class lists, yearbooks, school work & tests
- Use of name orally (birth name or selected name)
 - In classroom, during graduation, other school activities, with colleges



Privacy and Confidentiality issues

- Sharing identity of student with members of the community
 - Students, faculty, staff, other members of community (parents of other students)
 - Other entities: college, testing agencies, department of education, courts (guardian ad litem)
- Speaking with parents of transgender/gender non-conforming student
- Student communications with counselor or nurse
 - Who has access to communication with student
 - What are “privilege” guidelines
- Maintaining and access to records related to transgender/gender non-conforming identity
 - registrar, nurse, testers or other professionals, counselors, division head, teachers
- Medical issues
 - hormone therapy and other related medical strategies
 - medication and or treatment for anxiety or depression



Safe Physical Space

- CONSIDER IF UNDERTAKING REMODELING OR CONSTRUCTION
- Use of bathrooms throughout the school
 - identified gender
 - use of bathroom in gender of choice or gender of birth
 - gender neutral
 - specific locations/convenient to student
- Locker rooms
 - gender of choice or gender of birth
 - other options not in locker room
 - who decides?
- Restrooms in sports fields or other out of the way campus locations
- Other locations where students dress or use facilities
 - theatre, pool, ice rink
- Field trips and other off site overnight sleeping arrangements
 - **sport trips**
 - **international trips**



Applications and Admissions Process

- Lawsuit Shopping
 - Evaluating how schools address transgender student
- Identification on application
 - he, she, other
 - male, female, transgender
- “Additional information that may assist increasing a positive learning environment”
- Memorializing conversations with parents, student
 - discussions in admissions meetings
 - preparations prior to visit of student (especially younger students)
- Responding to disclosure by parent or student
 - discuss with caution; allow parent/student to share as they deem appropriate
 - consider in advance how school will respond
 - policy guidelines



inviting safe parents (other adults) into community

- exposing students to safe parents (other adults)
 - parents
 - grandparents, home stay parents, other visitors
 - school's failure to vet parent/adult exposed student to injury
 - what is school's duty?
 - what is reasonable?
 - in the case of injury: is the school comfortable describing process followed?
- entry to physical plant
 - ID offender scanning check
 - identifies those on sex offender registry
 - include other "no-access list"
 - i.e. ex-employees; abusive parents
- parents with criminal backgrounds
 - sex offender violations vs. other criminal convictions



vetting considerations

- when to conduct check
 - admissions process and/or during course of enrollment
- await notice vs. request information
 - community member comes forward or affirmative check
- in admissions process
 - request information in: enrollment application; teacher recommendations; interview with former school; interview with parents
 - question on application:
 - parent or other adult associated with this applicant convicted of a crime involving inappropriate contact with a minor
- conduct background check
 - history of reports to child protective services
 - Google search
 - criminal background checks (written permission)
 - check sex offender registries (no permission)
 - national and local
 - require as condition of application



vetting international families

- in admissions process
 - confirm parent is completing application
 - request detailed information about parents if using third party to identify students
 - confirm living and or guardianship status of student if not on campus boarding
 - adult associated with this applicant convicted of a crime involving inappropriate contact with a minor
- possible Skype or in-person interview
 - difficult and expensive to obtain criminal background
- obtain source of home stay family
 - Interview home stay “family” and visit home
- conduct background check on local guardian/homestay
 - history of reports to child protective services
 - Google search
 - criminal background checks (written permission)
 - check sex offender registries (no permission)
 - national and local
 - require as condition of enrollment



consequences of findings

- wide range of responses
- establish acceptable and non-acceptable behavior
 - sex offender registry vs. conviction for violent behavior
- possible strategies
 - take no action
 - prevent students from enrolling
 - allow enrollment with restrictions
 - not on campus or at any school event
 - accompanied by chaperone while on campus or school event
 - no sleepovers; play dates; parties or other interactions at offender home
 - no contact on or off campus or during or outside of school events
 - notify community (class or entire school)
- agreement in writing with family as condition of enrollment



responding to parent behavior

- types of behavior
 - coming to school under the influence;
 - threatening or abusive outbursts;
 - confusion or disorientation
- claim of negligence
 - school withheld information that would have impacted parent’s decision making
 - avoid play dates; car pools; other activities
- school’s duty to act
 - prevent “compromised” parent from accessing school
 - prevent parent under the influence from driving own or other children when impaired (car pool)
 - communicate with impaired parent or other members of the family
 - often other members of family not aware of behavior
 - limit access till behavior improves
 - Continued behavior may impact enrollment
 - notify parents of other students (attention to privacy)



other parent activities

- parents driving during school events (field trips)
 - track driving records; confirm insurance coverage
- parent's personal use of school directory
 - place community on notice not to use directory
 - confirm consequence of abuse
- parent use of logo, slogan or other intellectual property
 - ensure name, logo slogan etc. protected
- “drinking” parties hosted by parents
 - states holding parent's legally responsible
- parent association and other recognized organizations
 - school sponsored and “controlled”
 - “funds” monitored by school
 - school oversight of list serves, websites, activities
 - school has responsibility for activity of organization



conflicts between parents: divorce and custody

- parents increasingly pulling schools into conflicts
 - requiring teachers, faculty and others to testify
 - demanding emails, information and documents
- avoid involvement at all cost
 - do not take sides (remind faculty repeatedly)
 - do not know what happens at home
 - exposes school to liability for misrepresentation
- require parents to resolve dispute
 - ask for custody order or other documentation of status
 - continued disruption shall lead to removal
- do not speak with attorney or other “representative”
 - instruct all employees:
 - not to speak with lawyer or other representative
 - may or may not actually represent parent
 - parent may or may not have right to information
 - breach privacy of student
 - notify administrator of call, contact or subpoena
- language in enrollment contract requiring payment for costs



parent conflicts during application and enrollment

- party completing:
 - enrollment contract is responsible for tuition
 - application is responsible for application process
 - do not get involved if parents are in conflict
 - either:
 - remove them from process till resolved
 - deal with parent completing application
- challenges during application process
 - parents disagree as to whether child should attend
 - one parent completes application and second parent wants to see application
 - do not distribute application or other documents once submitted
 - NEVER DISCLOSE TEACHER RECOMMENDATION
 - one parent completes application and second parent calls to say “don’t process the application”
 - new spouse/significant other of parent
- consider parent behavior during application process



abusive communication and other inappropriate behavior

- parents or other individuals associated with school resulting from relationship to student
- with school representatives
 - teachers, coaches, administrators, support employees and other advisors (college)
- with other members of community
 - other parents, students, board members
- regardless of method
 - in person or by phone; in writing by email, text or other social media
- consider
 - Facebook, blogs, list serves, classroom discussions, carpool line,
- track and maintain all communication including emails and notes from all meetings
 - use to support removal of family
- clearly communicate expectations
 - in parent handbook & enrollment agreement



Parent Cooperation:

The School may take all action necessary to ensure the operation of the School in all matters as it may apply to the Student. A positive and constructive relationship between the School and Parent or other adults interacting with the School and/or School community by virtue of their relationship with the Student is essential to the mission of the School. Thus, if the behavior, communication, or interaction on or off campus (including during School-sponsored events) of Parent or other adults interacting with the School and/or School community by virtue of their relationship with the Student is disruptive, intimidating, overly aggressive, or reflects a loss of confidence or serious disagreement with the School, including but not limited to disagreement with its policies, procedures, responsibilities, personnel, leadership or standards, or imperils accomplishment of its educational purpose or program, Parent understands and agrees that the School has the right to dismiss the Student and/or the Student's family from the School community. In addition, Parent understands and agrees that the School has the right to place restrictions on that party's involvement with or activity at the School, on School property, or at School-related events if the party engages in behavior that the School determines in its sole discretion to warrant such a restriction.



Cost of Participation in Court or other Legal Proceedings:

If the Parent fail(s) to make any payment(s) under this Enrollment Contract when due, and School undertakes collection efforts to collect the payment(s) (including but not limited to efforts in house, with the assistance of third parties, or through legal action), the Parent agree(s) to pay all expenses incurred by the School, including collection costs and/or legal fees, in the event the School prevails. In the event of a dispute between the School and the Parent regarding tuition, fees, or charges of any kind, the School shall be entitled to recover the costs incurred by the collection of payments including but not limited School's attorneys' fees and costs incurred in such a dispute.

If, as a result of the School's relationship with the Student, the Parent, or other person(s) interacting with the School and/or School community by virtue of their relationship with the Student, the School or any member of its faculty or staff is required to testify, provide information for, or otherwise participate in a legal dispute to which the School is not a party, the School shall be entitled to recover from the Parent the School's attorneys' fees and costs incurred in such legal action and costs incurred by the School as a result of the collection of documents, coverage of faculty, staff or others absent from classrooms or other School responsibilities or other associated costs.



Business Manager's Obligation to Review Board's compliance with fiduciary duty

- Authority to bind school
 - who can sign and amount limits for multiple signatures
 - what goes before board/finance committee
- Endowment investments
 - compliance with investment policy
- Audit and 990 completion
 - how is 990 presented to board
 - how is audit presented to board
- Retirement plans and oversight
- Establishing balanced budget
- Assuming reasonable debt
- Compliance with intermediate sanctions



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