

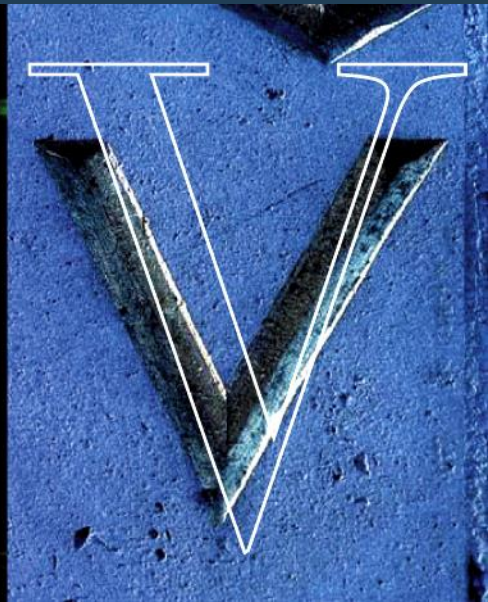
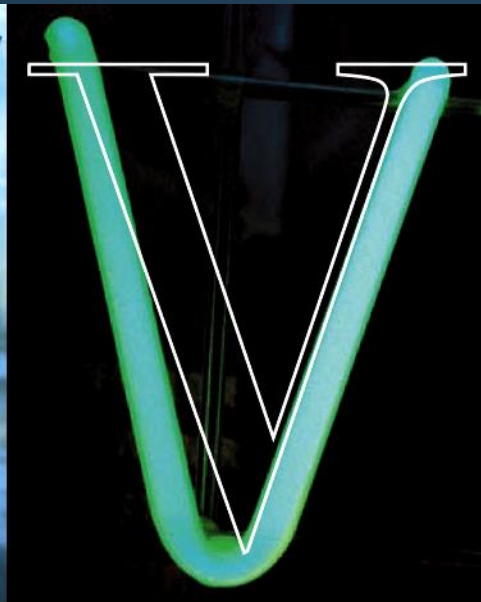
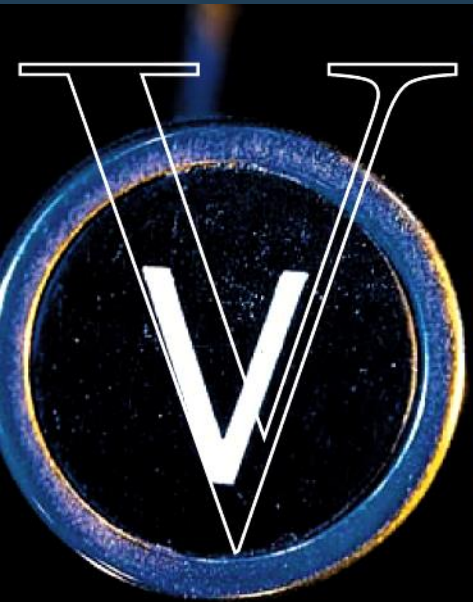
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Protecting Our Community: Proactive Legal Strategies
that Hardwire Safe Teaching & Learning Environments

Jewish Early Childhood Directors

April 2017

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you hold the power!!!!!!!

- **# 1 Priority is Safety and Security of students**
 - failure to consider safety of students = negligence
 - tragedies nationwide place schools on “notice

- **Hardwire protection of students**

- **ZERO risk is a myth**
 - limit liability exposure by being proactive

- **Risk benefit analysis**
 - escorting terminated teacher off campus

- **Culture is king**
 - acting outside of culture is recipe for disaster
 - “acceptable behavior” in *OUR* school
 - can teachers text students?

- **Document Coordination**
 - handbooks, enrollment contracts, applications



Topics

■ Employees

- hiring and vetting
- managing and supervising
- ending of employment

■ Students

- student vetting
- visiting applicants
- transgender

■ Parents, Guardians and Visitors

- vetting
- behavior
- access issues



Employees

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hiring process

- **goal of vetting process**
 - Tighten the net so no one slips through
- **even if applicant from search consultant**
- **carefully review entire process**
 - from start to finish
 - policy outlining process
- **ensure consistency**
 - Central oversight to
 - HR office maintains all documents and checklist
 - consider training on hiring/interviewing
- **application**
 - complete application at very start of process
 - In addition to application
 - On-line
 - Compliance with state laws
 - Signature confirming information accurate and complete



vetting process

- **criminal background check**
 - # of years (5, 10, 15) based on residency
 - State, federal and “crime guard (central data base)
 - Standard for rejection
 - Type of offenses, # of years since offence
 - FCRA if used as basis for decision
- **social security check**
- **credit check**
- **driving record check**
- **sex offender registries**
- **reference checks**
 - Maintain tracking form
 - Central list of questions
- **education verification**
- **work history**
- **teacher license forfeiture**
- **social media check (Google, face book, rate my teacher)**



managing employee performance

■ Documentation that governs the relationship

- employment agreement
 - An agreement to perform and abide by policies
 - Fixed term with avenue for removal
 - Other terms: confidentiality, intellectual property
- employee handbook
 - relationship between employee and school
- benefit plans

■ Performance management tools

- Supervision
- Review/evaluation
- Coaching/counseling
- Note to file
- Written warning
- Performance improvement plan
- Training

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focus on boundaries and behavior

- **perception v. reality**
 - *The former can be equally damaging*
- **no such thing as a list of can and cannot “do”**
- **encourage employees to consider factors at play**
 - Context (where, when, why)
 - Ages & genders
 - The mode of communication
 - Cell phone, text, school/personal email
 - Verbal communication
 - Physical/personal space
 - Sitting on lap
- **social media**
 - connections with students and former students
 - **when private lives become public**



When the Relationship Ends ...

- **treat person with “respect and dignity”**
- **consider**
 - Taking the computer
 - Taking security access devices (keys, key-cards)
 - Retrieve and change all passwords and codes
 - Blocking access to other employees etc.
 - *may require escorting out, and finding an alternate way to gather/retrieve personal belongings*
 - reminder of the confidentiality obligation
 - contact with students, families
 - return to campus
- **security during termination**
- **release or other agreement**
 - Consideration; value in exchange for release



Students

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Top issues related to students

- **duty to enroll safe students**
- **vetting students**
 - evaluating carefully all applicants
- **student visits**
- **student discipline**
 - clear standards of behavior and consequences
- **protecting vulnerable students**
 - transgender students
- **harassment and bullying**
 - reporting claims internally
 - investigation of allegations
 - communicating acceptable standards of conduct
 - discipline “policy”



transgender students

- **increasing # of students at younger ages**
 - Kindergarteners through high school
- **exposure for failing to create “safe space”**
 - acceptance = creating safe environment
 - bullying, alienation (use of selected name)
- **Create policies and think through “philosophy”**
 - include board or “parent” organization
- **single sex school considerations**
 - enter as gender of school
 - change of gender identity while student
- **Train EVERYONE**
 - employees (faculty and staff), all parents & families, other members of your “community”
- **application:**
 - Gender vs. Identified Gender
 - pronouns



transgender students, not just the bathrooms

- **consider creating “guidelines” based on issues**
 - use of bathrooms (gender neutral)
 - change of name–
 - used in school
 - legal name -- official capacity
 - communicating with student body (“girls”)
 - including in family handbook
 - use of pronouns (he/she/they)
 - communicating with current students
 - communicating with parents of transgender child
 - communicating with other families in the school
 - confidentiality concerns
 - setting “standards” and “expectations”
- **create “guidelines” around procedures**
 - Build in the ability to change and fluidity
- **construction projects**



student vetting

- **student injured by fellow student**
 - student not admitted if properly vetted
 - the “biter”
- **education history (on application and in interview)**
 - all history not just last school
 - reasons for departure
 - carefully review dates of attendance (month and year)
 - specifically inquire into any disciplinary issues
 - inquire into gap in attendance
- **recommendations**
 - teachers rarely know full story
 - recent teachers
 - form completed by school administration
 - reason for departure, allowed to return, bad behavior history,



visiting applicants

- **permission form completed prior to visit**
 - known allergies (bee sting, peanuts)
 - limitations in activities (asthma)
 - who will pick up from school
 - if plan on using pictures, get waiver
 - emergency contact information
 - other emergency permission (permission to treat)
 - risk to him/herself or others
 - waiver of liability
 - if known issue have adult remain
 - diabetic, seizure, other medical issues

- **Place faculty and staff on notice of issues**
 - Consider confidentiality concerns
 - Disability concerns (i.e. diabetic student)



parents
guardians
visitors

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parents, guardians & relatives

- **do we “vet” parents, guardians & relatives?**
 - proper vetting would reveal danger
- **difficult issue**
 - message to applicant families
 - impact on applicant pool
- **parents on offender registries**
 - come on campus, notify community, allow play dates
- **responding to signs of bad behavior**
 - suspicion of abuse; children’s services reporting
 - appearance of being under the influence
 - close relationship with student not his/her child
 - drinking parties at homes
- **visits by adults associated with student**
 - grandparents, estranged parent, step parent
- **assure each student has responsible adult**
 - identify, vet and confirm existence and contact info



vetting of parents, guardians & relatives

- **difficult issue**
 - message to applicant families
 - impact on applicant pool
- **criminal background check**
 - parents on offender registries
 - come on campus, notify community, allow play dates
- **driving record**
- **social media searches**
- **question on application:**
 - *parent or other adult associated with this applicant convicted of a crime involving inappropriate contact with a minor*
- **consider as part of check with previous school**
- **consult school history for siblings/alumni**



adults miscellaneous

■ neighbors

- checking offender registries of neighbors
- Notice to families, other actions to protect students

■ facilities use - renters

- use of pool, gym, other facilities
- security and vetting of visitors

■ entry to school - visitors

- establish screening standards
- screening machine
 - background check based on driver's license
 - generally just sex offender registries
- badges or other name tags
- sign in forms
- purpose of visit and chaperoning to destination



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wise in the school world

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the road ahead
is bright

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