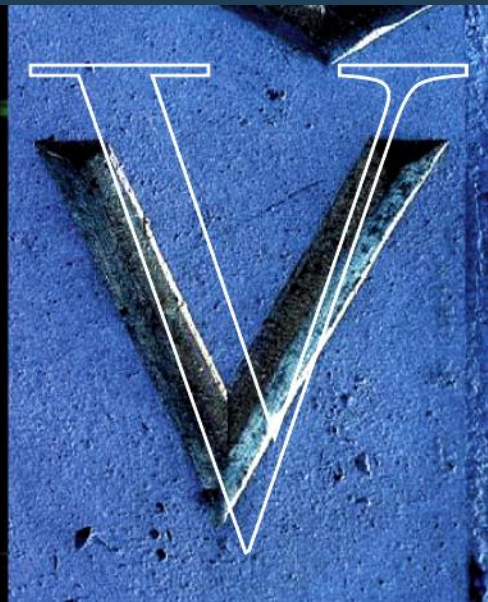
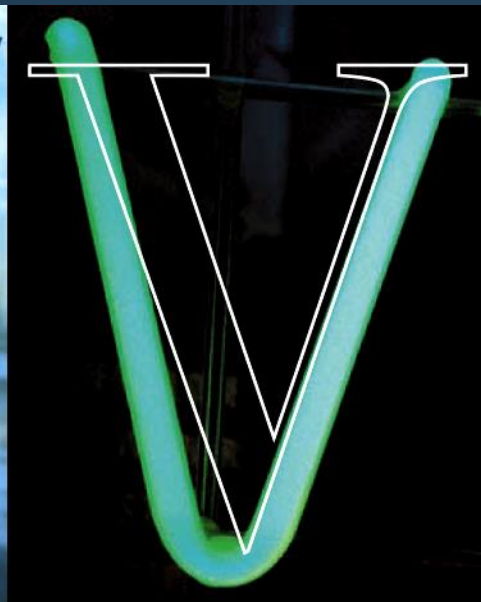
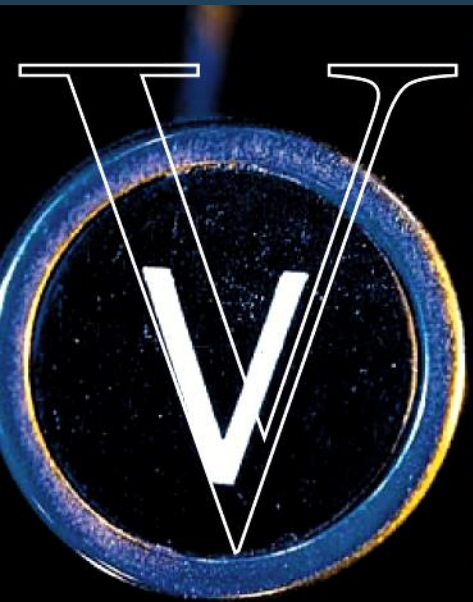


VENABLE[®]_{LLP}

Effective Enrollment Contracts, Going Online & Other Hot Legal Issues in the Admissions Process

Caryn Pass, presenter



rules

- Information is power
- Fear is the enemy
- Culture is key
- Legal Exposure involves a Risk/Benefit Assessment
 - No such thing as Zero Risk
 - How much risk are you willing to take?
 - Belt, Suspenders, Safety Pin the bottom of your shirt tails to the top of your briefs
- Deep Cleansing Breaths

*Wise In The
School World*



what have we learned, why do we do this?

- Objective of enrollment contract
 - Collect tuition
 - Establish Rules (reporting to colleges)
 - Obtain permissions (use of photos, attend field trips)
- Benefits
 - Ease of maintenance “We can’t find the contract”
 - Tracking returns easier
 - Quicker return
 - Sustainability
- Legally Enforceable Document
 - Compliance with state, federal, and common law
 - Establish AUTHENTICITY of document

*Wise In The
School World*



e-contracting process and providers

- Policy
 - Create e-contracting procedure
 - Memorialize in writing
 - Include ALL steps
 - Follow consistently
 - Establish authenticity in court
- Vendors
 - Provide technical “system”
 - Provide services (i.e. tuition refund plan)
 - Confirm details with legal counsel
 - Will follow **your** direction
 - Red Flag if appropriate



elements of authenticity and process

- Secure access
- Notification and consent to enter e-contract
- Selection and confirmation of choices
- Review, modify and confirm elections
- Confirm receipt and acceptance
- Inability to modify agreement

*Wise In The
School World*



language above signature line

- Print fully executed agreement for records
- Email confirmation w/in 24 hours
 - contact school if email not received
- Consent to binding legal document
- Information provided true and accurate
- Compliance with terms and conditions
- Agreement to execute by electronic means
- Electronic same as paper signature
- Any details related to deposit obligations
- ***Exit or Proceed to Execution of Agreement***



following execution of agreement

- print or save copy of agreement for records
- notification of forthcoming email confirmation
 - contact school if email not received by [date/time]
- either school or vendor sends email confirmation
- email
 - confirms receipt and acceptance by school
 - confirmation if additional steps required
 - if contract contingent upon payment notice of follow up email confirmation
 - attach PDF or link to location PDF stored
- school receives contract in PDF
 - No ability to change, modify or write on agreement
- keep email as proof of confirmation of agreement



Pick who signs

- Parents
 - Non-paying parent
 - One parent family (process for confirming)
 - Two parents one home
 - both sign, one signs, one signs in behalf of both
 - Multiple parents multiple homes
 - all willing to sign, only one willing to sign
- Non-parent paying tuition (grandparent)
- Authority to act for child (custodial or non custodial parent)
- 3rd party vendor (international, guardianship rights?)
- “Local guardian” (homestay family, Aunt Tilley)
- 18 year old student



How does it work?

- Option selection
 - One parent
 - Two parents same home
 - Both sign
 - One signs for both
 - Multiple parents/multiple homes
- Confirmation required signers (require party paying etc.)
- Requiring signatures of **all** parties
 - All must sign for valid contract
 - Question of “authentic” signature
 - Assume each parent “signed”
 - Separate logins
 - Must sign same agreement
 - Separate confirmation emails
- One signs in behalf of other/all



international students

- Collection issues
 - 3rd party guarantor/Full upfront (not at school till \$)
- Housing issues – Define in Agreement?
 - School not providing housing (waiver of liability)
 - Parent provides - proof of guardian/home
 - 3rd party vendor - contract w/vendor; address in service & enrollment contract
 - School sponsored housing
 - On campus dorms, off campus home
 - Home Stay--Who pays stipend
- Compliance with code of conduct in housing
- Vacation and breaks
- Costs of return upon removal
- Language of international parents at start of process



contract contingent upon...

- Execution of all required parties
 - Must police completion of signatures
 - Should provide email confirmation to all parties
 - Maintain copies of all emails
- Payment of deposit
 - Police receipt of payment
 - Email confirmation of receipt and enrollment
 - Require electronic payment prior to execution
 - Alternative approach
 - Mandatory payment of deposit
 - Liability for full tuition payment upon “execution” or “date of withdrawal”
 - No attendance without deposit payment, class assignment, locker, schedule etc.
- Completion of “forms”



don't forget

- Bad behaving parents
- Cost of lawyer's time for document production, witness testimony (prep & appearance), challenges
- Notice of enrollment by school in tuition refund plan
- Notice to colleges of disciplinary actions
- Execution of agreement or other form of 18 year olds
- Use of images including photos, videos, other likeness, writings, art work, statements during and after enrollment
- Don't use private or confidential information of school including parent directory other than for school purposes b/f, during, after enrollment (breach grounds for removal)
- Don't use intellectual property of school without written permission from Head b/f, during, after enrollment (breach grounds for removal)



Language:

- International Parents (multiple languages)
 - If you are unable to fully understand this document as written in English please obtain assistance to ensure that you are able to enter into the enrollment agreement with the full understanding of the obligations as outlined.

- Name, Logo and Likeness:
 - Parent agrees that neither Parent nor the Student is authorized to use THE SCHOOL's name or any likeness of THE SCHOOL's name, crest or logo to describe any event, outing, club, sports team, group or other activity that the Undersigned or the Student may organize, lead or participate in without the express written permission of THE SCHOOL's Head of School.



Badly behaving adult Language

- A positive and constructive relationship between [THE SCHOOL] and the Student's Parent(s)/Guardian(s) 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. If the behavior, communication, or interaction on or off campus (including during THE SCHOOL-sponsored events) of the Student's Parent(s)/Guardian(s) 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's policies, procedures, responsibilities, or standards, or accomplishment of its educational purpose or program, the Parents understands and agrees that THE SCHOOL has the right to dismiss the Student and/or the Student's family from the THE SCHOOL community. In addition, the Student's Parent(s)/Guardian(s) or other adults interacting with the School and/or School community by virtue of their relationship with the Student understands and agrees that THE SCHOOL has the right to place restrictions on that party's involvement with or activity at THE SCHOOL, on THE SCHOOL property, or at THE SCHOOL-related events if the party engages in behavior that THE SCHOOL determines in its sole discretion to warrant such a restriction.



Lawyer's fees for parent disputes language

- In the event of a dispute between the School and the Parent(s)/Guardian(s) Parents 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(s)/Guardian(s), 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(s)/Guardian(s) 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.



tuition remission

- movement away from tuition remission towards financial aid
 - not “fair” to faculty without children in school
 - forfeit potential full pay students
 - financial aid calculation faculty preference
- remission pre-tax (not taxable income)
- employees earning \$115,000 can not receive remission in amounts greater than those earning less than \$115,000
 - If 50% given to all faculty; head gets 100%; entire amount of remission for head is taxable income
- remission policy must be tested for discrimination



intellectual property protection

- protect school's "brand"
 - name, slogan, logo
- brand represents school's quality, culture, reputation
- precluded from using name if lose T.M.
- file for trademark protection
 - inexpensive
 - in U.S. and abroad
- avoid use of brand by non-school entities
 - parents advertising for personal reasons or school non-authorized reasons
 - vendors ie: international student providers, clothing producers,
 - international schools or U.S. schools
- Prevent parents from using list of families for personal reason



international students

- Select vendor carefully
 - School chooses vendor and represents quality of service
- School is still responsible for student
- Enter written agreement with expectations of all parties
 - What services will they provide
 - Who has liability
- Obtain copy of agreement b/w parent and vendor
- Enrollment agreement signed with parent? Vendor?
Local guardian?
- Home stay should be addressed with great care
 - Vet homestay families, visit homes



applications

- only collect information used in decision
 - “do I use this information...?”
- no social security numbers
- NAIS categories
 - opt in, describe reason for collection
- paper document
 - only parent/guardian writes on original application
 - no writing by school
 - copies shared with committee
- on line
 - follow authentication procedures
- signature
 - below release



application release

- authorize access to student information
 - permission to speak with former school
- 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
- waive access to application documents
 - teacher recommendations, meeting notes, financial aid decisions, calculation methods
- decisions based on a wide range of considerations
 - solely and exclusively determined by school
 - submission of application does not guarantee admissions



documents, materials & information

- waive access to application materials
 - subject to subpoena
- teacher recommendations
 - contingent upon parent release (receiving)
 - maintain copy, common source, release from parents (sending)
 - mailed/mailed/online from teacher
- notes (interviews, committee meeting, visit)
 - caution in writing comments
 - avoid inappropriate statements
 - train all parties
- transcripts
 - sent directly from school
- do not write on any application “document”
 - application, recommendations etc.
- communication with applicant, parents etc.
 - texting, email, Facebook
 - follow school policy



transgender students

- increasing # of students at younger ages
 - Kindergarteners through high school
- stages of transition
- single sex school considerations
 - enter as gender of school
 - change of gender identity while student
- application: “Gender” “Identified Gender”
- consider creating “guidelines” based on issues
 - Use of bathrooms (gender neutral); locker rooms; sports participation; change of name-- used in school legal name -- official capacity (transcripts/records); housing during field trips; boarding; communicating with student body; including in student handbook; use of pronouns (he/she/they); communicating with student’s parents;



online application

- must be drafted in compliance with federal and state laws
- unenforceable if not in compliance and authentic
- draft policy outlining process
- steps:
 - confirm protected access to application
 - confirm completing online application
 - allow for review and modification of completed document
 - encourage print out of application
 - email confirmation
 - PDF copy sent to school



enrollment agreement

- general
 - hardwire: name of student, grade, school year, date to hold spot, date after which full tuition owed
 - 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*
 - reporting of discipline to college or university
- international
 - instructions to obtain assistance if difficulty with English (written in foreign language)
 - cover costs if student returned to home country



breach of privacy

- share information only with authorized parties
 - on-custodial parents, lawyers, non-parent spouse
- obtain written permission to speak to testers, tutors, consultants
- rights to student documents of 18 year old
- secure application documents
 - 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
 - parents involved in tours or “host” family
 - with other parents or community members
- discuss with all members of the process



student vetting

- student injured by fellow student
 - student not admitted if properly vetted
- 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?
- recommendations
 - teachers rarely know full story
 - recent teachers
 - form completed by school administration
 - reason for departure, allowed to return, disciplinary history, discipline on transcript
- **ESPECIALLY INTERNATIONAL STUDENTS!!!**
- drug dealer case – Sold drugs at previous school, expelled, two students at new school purchased from him and became addicted



vetting adults

- failure to vet adult resulted in injury to student
 - proper vetting would reveal danger
- 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:
 - parent or other adult associated with this applicant convicted of a crime involving inappropriate contact with a minor



visiting applicants and interviews

- 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)
 - if known issue have adult remain
 - diabetic, seizure, other medical issues
- international or domestic interviews off campus
 - Skype: confirm applicant
- inform candidates if interview during visit
 - who is in interview



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
- completing enrollment contract or application is responsible for tuition and application process
- 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

- requesting access to admissions documents
 - custody battles, failure to admit, financial aid challenges
- do not release without subpoena
 - open door to other releases
 - breach of privacy
 - confirm enforceability of subpoena
- document retention and destruction policy
 - what documents?
 - financial aid records, teacher recommendations, notes, applications, testing & records
 - why do we maintain a specific
 - how long are documents maintained
 - where do we keep them
 - 3rd party vender



misrepresentation

- acceptance based on misrepresentations
- school misrepresented through
 - Website, Facebook page, written materials, teachers during student visit, guides (especially parents), family matches, during interview process
- check “school at a glance”
- update details on website and in materials
- prepare everyone
- New York City Case
 - parent requested full tuition refund alleging pre-school “promised” admissions to prestigious elementary school
 - “our students go to ABC schools...”



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is bright

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