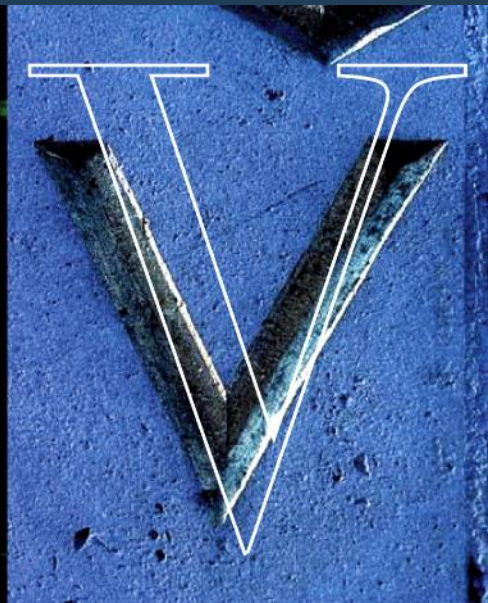
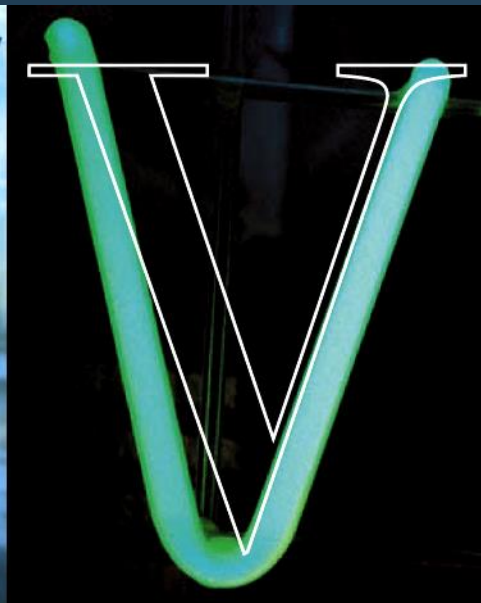
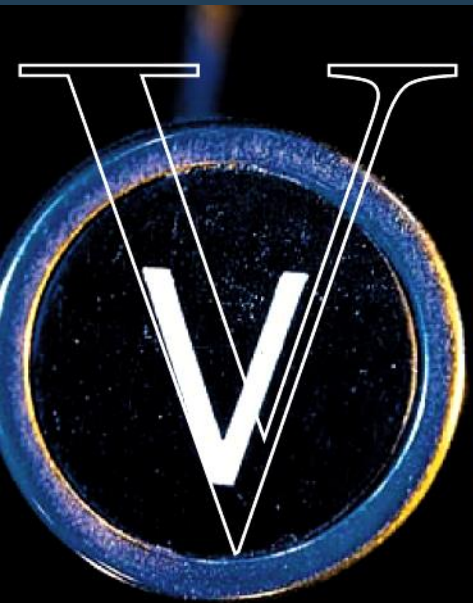


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Hot Legal Issues in
Independent School Admissions

*Caryn Pass, presenter
NJ AIS Admissions Officer Conference 2015*



basic guidelines

- consistent with culture and mission
- confirm consistency with other school policies
 - document retention and destruction policy
 - use of social media
 - intellectual property
- risk assessment continuum
 - different decisions warrant different risk
 - is the benefit worth the risk
 - requiring disclosure of testing
 - exposure for discrimination
 - ability to service student



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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