

WHAT EVERY SCHOOL SECRETARY NEEDS TO KNOW

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Lear and Lear, April 10, 2024

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Legal issue #1. Customer service

- YOU are the face of the school.
- Like it or hate it, one of your primary job responsibilities is customer service



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What do you do when...

It's a typical Monday morning and you get a call from an angry patron whose home borders the playground of your school. Apparently, over the weekend, some kids were throwing rocks from the playground and one went through this neighbor's window, hit her beloved cat FluffFluff, giving it a concussion and sending the cat and the woman to the emergency room vet all weekend. Now FluffFluff has to wear a helmet and is fraught with anxiety, fearing another unknown flying object. She (the woman, not FluffFluff) is not happy. She wants the school to pay for the window, the helmet, and the cat's therapy. What do you say?

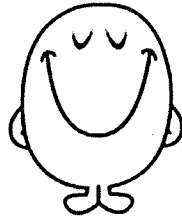
- a. "Look lady, if FluffFluff is paranoid of UFOs, that makes two of us. If you hate kids so much, you really should not be living where you do."
- b. "M'am, it's not the school's or the district's responsibility for what happens on the playground afterhours. You'll have to take it up with the children (or their parents) who threw the rocks."
- c. "Mrs. ____, I'm so sorry about what happened to your window and to your cat. That must have been frightening for you both. If that happened during the school day and we knew who the culprits were, we'd certainly address it with the students and their parents. As it happened on the weekend, I doubt there is anything we can do, but let me talk to my supervisor and I'll get back to you."

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How is this a legal issue???

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Happy Customers Don't Sue

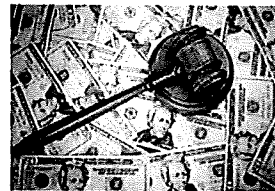


MR HAPPY CUSTOMER

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Litigation Costs

- In litigation, it doesn't matter if you're right; it matters how much you're willing to pay to prove you're right. And any Tom, Dick, or Harry can file a lawsuit.
- Lawsuits **cost** and not just financially.
 - Depositions are time suckers
 - Being named personally in a suit is emotionally taxing
 - Lawsuits can drag on for years



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Legal Issue #2: The Family Educational Rights and Privacy Act, aka FERPA

- FERPA provides that educational agencies may not deny parents* the right to:
 - inspect and review **education records** within 45 days of a request;
 - seek to amend education records believed to be inaccurate; and
 - consent to the disclosure of **personally identifiable information** from education records, except as specified by law.
- Schools also must annually notify parents and eligible students of their rights under FERPA, as well as about the school's/district's "**directory information**" policy.
- Educational agencies may not disclose education **records** or personally identifiable information **from education records** without parent consent.

*This applies to BOTH biological parents, regardless of who has custody or guardianship, unless a court order specifically prohibits access to education records. (NOTE: Most protective orders do not specifically prohibit access to education records.)

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FERPA terms:

- **Educational Records:**
 - records that are directly related to students and
 - are **maintained** by the school or district.
 - This includes everything in MyStudent (or a similar student information system), all records that are part of a student's SPED file, and any hard-copy documents kept in a file folder at the school or the district (this includes the files—paper or electronic—that some administrators keep about student interactions, sometimes thinking this keeps the administrator's notes from being "student records.")
- **Personally Identifiable Information:**
 - any data or information about students collected by schools, districts, government agencies, or organizations and companies working with schools that might reveal the identity or personal information of specific students or that could *reasonably* allow someone to indirectly track down the identity or personal information of students.

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More FERPA Terms

- **Directory Information:** information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. For example:
 - Student's name
 - Address
 - Telephone listing
 - Electronic mail address
 - Photograph
 - Date and place of birth
 - Major field of study
 - Dates of attendance
 - Grade level
 - Participation in officially recognized activities and sports
 - Weight and height of members of athletic teams
 - Degrees, honors, and awards received
 - The most recent educational agency or institution attended
- SCHOOL PERSONEL DO NOT NEED CONSENT TO DISCLOSE DIRECTORY INFORMATION UNLESS A PARENT HAS OPTED HIS STUDENT OUT. BUT CHECK W/ADMINISTRATORS TO SEE WHO SHOULD RELEASE THIS INFORMATION.

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FERPA Exceptions—When you DON'T have to get consent:

- Directory information
- Records disclosed to other school officials at the school, including teachers, who have legitimate educational interests
 - A third party to whom the school has outsourced institutional services may be considered a school official
- Records disclosed to school officials at another school where the student seeks or intends to enroll, or is already enrolled
- Records in connection with financial aid for which the student has applied
- State or local officials involved with the juvenile justice system, subject to State law restrictions
- Disclosure to accrediting organizations to carry out their accrediting functions
- Records in connection with an emergency if knowledge of the information is necessary to protect the healthy or safety of the student or other individuals

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Health and Safety Emergency Exception

- In making a determination under this exception, a school may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals.
- If the school determines that there is an **articulable and significant** threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. I
- If, based on the information available at the time of the determination, there is a **rational basis** for the determination, the Department of Education will not substitute its judgment for that of the educational agency or institution in evaluating the circumstances and making its determination.

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What about Step-Parents and grandparents?

- In some cases, a stepparent may be considered a "parent" under FERPA if the stepparent is present on a day-to-day basis with the natural parent and child and the other parent is absent from that home.
- A grandparent or other caregiver who is acting in the absence of the parent(s) may also be considered a "parent" under FERPA.
- A step-parent/grandparent/uncle/aunt/long-lost cousin may also have access to education records if a parent provides consent in writing for that person to have access.

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Confidentiality, cont. Records + Information, generally

- While FERPA protects the privacy of **records**, as a school employee you have a professional responsibility to keep information gleaned from those records, or that you observe or overhear, confidential.
- As secretaries, you have A LOT of information. Keep it professional and confidential!
- This includes:
 - Casual conversation with co-workers
 - Social media posts
 - Dinner/party topics of conversation
 - Sharing with parents information about students who are not their children.



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LEGAL ISSUE #3: CUSTODY ISSUES

- When there is a dispute regarding custody issues, always ask for custody papers or parenting plan!
- Utah Code 30-3-10.9 provides that if a parent plan/divorce decree does not have an education plan (which most of them don't, although moving forward they will be required to have one), the following rules apply:
 - If one parent has **sole physical custody**, that parent decides:
 - the home residence for purposes of identifying the appropriate school or another specific plan that provides where the child will attend school;
 - which parent has authority to make education decisions for the child if the parents cannot agree; and
 - whether one or both parents has access to the child during school and authority to check the child out of school. (Schools need not notify Parent A if Parent B does check Student out, but may, if requested.)
 - NOTE: Neither parent (divorced or married, for that matter) gets to come hang out with a kid during school hours if that is disruptive and/or not allowed for ALL parents. Eating lunch with kids is okay if all parents are allowed to come eat lunch with kids; telling parents "no" on eating lunch is okay if you tell all parents no.

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Custody Issues, cont.

- If parents share **joint physical custody, and one parent has custody a majority of the time:**
 - the parent having the child the majority of the time gets to decide the home residence for purposes of deciding the appropriate school
 - the parent having the child the majority of the time gets to make education decisions for the child if parents disagree; and
 - both parents get access the child during the school day and authority to check the child out of school.
- If parents share **joint physical custody, and both parents have an equal amount of time:**
 - A court will make decisions about where the child goes to school and who gets to make education decisions (i.e., if there is a fight about it, defer to the person who enrolled the child and tell the person she needs a court order further directing you)
 - both parents get access to the child during the school day and authority to check the child out of school.

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Custody issues, cont.

- Records? Both biological parents have a right to review their child's educational record under FERPA.
- What if Parent A specifically asks that Parent B—who's out of the picture—not be allowed access to Student's record because Parent B is dangerous and will harm Student or Parent A if he/she has the information found in the records?
 - →Remember, the law does not require you to provide information immediately. You have 45 days under FERPA to provide records. Delay providing the record until you have notified Parent A and allowed Parent A time to take necessary action to prevent Parent B from getting the information.

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Best practices for all the other issues:

- Where both parents have joint and legal custody, and unless otherwise expressly prohibited by a signed court order, schools should **work primarily*** with the parent who enrolled the student or whose address was used to enroll the student in school.
- If a student is on a variance from outside the school or district boundaries, the school will work primarily with the parent who has custody of the student the majority of the days in the year.
- "Any parental rights not specifically addressed by the court order may be exercised by the parent having physical custody of the child the majority of the time." Utah Code 30-3-10.3 (4)
- Picking up students: A child may be picked up from school after the school day is over by either parent and the school is not responsible for which parent picks that child up. The school need not supervise parent pickups to determine that the parent with parent-time is picking up the student.
- Visiting students at school: School visits as an exercise of parent-time is discouraged under the law. (Utah Code 30-3-33(7)). However, if you allow one parent to visit Student during the school day, you should allow both to do so.

*See next slide

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Custody Issues, cont.

- "Works primarily with" means:
 - All communication that the school or teacher mails home can be mailed only to the address of the parent who enrolled the student.
 - All phone calls from the school or the teacher can be made to the home of the address of the parent who enrolled the student.
- The school should work in good faith with both parents where there is a reasonable request for telephone communication with a specific parent, but the school reserves the right to determine what is reasonable.
- Do not begin the practice of duplicating letters, notes, memoranda, notices, newsletters or the like sent home with students, unless you want to keep it up. Emailing both parents is easy. Do that.
- If there is anything of importance that is communicated to one parent and not the other, the parents should communicate that information with each other and if they cannot, get a court order requiring the school to communicate separately with each parent.
- **DO NOT TAKE SIDES!**

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BUT WAIT! What if there are no divorce papers?

- What do you do when Mom and Dad are both on birth certificate but only one parent listed in enrollment paperwork?
- PLEASE ASK ABOUT THAT!
- If Mom is enrolling student and makes no mention of Dad, but Dad is on birth certificate, using your best professional sensitivity, find out what you can about Dad's involvement in student's life.
- WSD PRACTICE: ABSENT CUSTODY OR DIVORCE PAPERS, IF A PARENT LISTED ON THE BIRTH CERTIFICATE IS ABSENT FROM THE STUDENT'S LIFE, TREAT THE ENROLLING PARENT AS A PARENT WITH PRIMARY PHYSICAL CUSTODY AND FOLLOW THE RULES IN THE ABOVE SLIDES.

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Legal Issue #4: Homelessness and McKinney Vento District Policy 4750

- The purpose of federal homeless education legislation is to ensure that a child's education is not needlessly disrupted because of homelessness.
- If a child's residence or eligibility is in question, the child shall be admitted to school until the issue is resolved.

POLICY 4750

1. Homeless students shall be enrolled immediately.
2. Homeless students will be granted full participation in regular school activities and programs.
3. Homeless students cannot be excluded based on the inability to present the following information:
 - Immunization records
 - Medical records
 - Birth certificate
 - Previous school records or transcripts
 - Guardianship records
 - Proof of residency
 - Other required documentation

*We will continue efforts to assist the student in submitting these records as soon as possible.

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Homeless Students, cont.

4. Homeless students have the following options for choice of school to attend:
 - The school of origin (where the student was attending when permanently housed or the school the child last attended)OR
 - The school closes to the shelter or temporary housing
5. Transportation to the school of origin will be provided at the request of the parent/guardian. (If the student's temporary housing is located in a different district, we can work with that district to split the transportation responsibilities)
6. A parent/student has a grievance about this process, the student will remain in school without loss of services pending resolution. The parent may then submit a written complaint to the principal of the school, who has 10 days to respond or resolve the issue. A parent may appeal to the WSD Homeless Liaison, who is the Director of Student Services.)

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SO... How do you know if a student is homeless?

- All students should fill out a Homeless Student Form... which is available for the homeless liaison at the school or district. School counselors should also be familiar with the process.
- If in doubt, enroll and then call an administrator.

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A Short List of 2024 Education Information and Bills:

➡ **\$8.2 Billion Total Public Education Budget for FY 2025.**

- **HB 84 School Safety Amendments** Creates a school guardian program. Requires LEAs to conduct school safety needs assessment for classrooms to have panic alert devices and video cameras. Requires schools to provide regular parental updates on bullying.
- **HB 221 Stipends for Future Educators** Provides stipends for student teachers enrolled in an education preparation program that leads to a Utah professional level education license and works at an LEA as a full time student teacher
- **HB 331 School and Classroom Amendments** Requires toilet training as a condition for kindergarten enrollment. Includes the superintendent's designee as one of the school officials that can be notified of civil and criminal charges against a student in their school.
- **HB 29 Sensitive Material Review Amendments** Prioritizes the protection of children from sensitive materials over other considerations in evaluating instructional material. Establishes a process to review allegations and requires statewide action to remove material when certain criteria are met.

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And still more bills...

- **HB 261 Equal Opportunity Initiatives** Prohibits engaging in or maintaining a policy, procedure, practice, program, office, initiative, or required training that is based on an individual's personal identity characteristics. Requires an institution to ensure that all students have access to programs providing student success and support.
- **HB 82 Public Education Program Modifications** Incorporates many USBE policy requests and requires LEAs to submit school employee work email addresses to USBE. Allows USBE and the Legislature to send email communication to school employees up to three times per year. Extends the deadline to include ethnic studies standards into materials
- **HB 119 School Employee Firearm Possession Amendments** Creates the Educator-Protector Program to incentivize school teachers to responsibly secure or carry a firearm on school grounds.

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And still more...

- **HB 121 Educator Background Check Amendments** Allows entities to clone background information between LEAs or qualifying private schools under certain circumstances and prohibits LEAs from collecting background check fees from volunteers and licensed, non-licensed and contract employees
- **HB 460 Government Employee Conscience Protection Amendments** Prohibits a governmental entity from denying an employee's reasonable request to be relieved from performing a certain task if the task would conflict with the employee's sincerely held religious beliefs or conscience

Praise for School Secretaries...

SCHOOL SECRETARY
 noun. [skool sek-ri-ter-ee]
 Someone who solves a problem you did not know you had in a way you do not understand.
 See also **wizard, magician**

SCHOOL SECRETARY
 (n) letter drafting, people connecting, teacher supporting, chaos coordinating, life changing, multitasking. See also: queen of the office, superhero.

★ I'M A ★
SCHOOL SECRETARY
because
 PRINCIPALS
 Ⓞ NEED Ⓞ
HEROES
 ★ TOO ★

And a little more praise!

**NEVER MESS WITH A
SECRETARY**



**WE KNOW PLACES
WHERE NO ONE
WILL FIND YOU**



