

School Policy Legal Insider

149 Fifth Ave., 16th Fl.
New York, NY 10010-6801

Plug SCHOOL POLICY Loopholes... NOW!

School Policy Legal Insider

The Plain-English Guide for School Administrators

Dear Educational Administrator:

How many of your school policies have loopholes?

Dangerous loopholes you won't learn about until you get sued or your reputation is tarnished? For example:

- ▶ You have a policy on student Internet use...
BUT does it protect kids from on-line sexual stalkers?
- ▶ You have a policy on sexual harassment...
BUT does it comply with new Title IX changes?
- ▶ You have a policy on renovation contracts...
BUT does it save the school day from disruption?

If you're not 100 percent sure, it's not surprising. The law changes constantly. And if your policies aren't up-to-date, you may be tempting fate.

So when a student is injured... or an outraged parent complains... or a contractor demands a penalty payment... you may discover--too late--that the policy you relied on falls short. One little loophole is enough to cost you: a nasty lawsuit, negative publicity, and a career setback.

Now you can spot those loopholes early and plug them! Introducing...

School Policy Legal Insider,
the only "how-to" monthly guide
written especially for administrators like you.

School Policy Legal Insider is much more than just a "news"-letter. It's an early warning system. The Insider anticipates your problems and solves them.

Plus every month you get the Insider's exclusive "working tools": actual model policies, sample letters, memos, forms, contract clauses, and more! Adapt them to fit your needs. Bottom line: You don't just read the Insider; you use it!

Now you can get the next issue of the Insider free! I'll give you all the details in a moment. But first, let me

(over, please)

tell you how the **Insider** will become your working partner.

GET POLICIES WRITTEN AND TESTED
BY TOP SCHOOLS NATIONWIDE

Why reinvent the wheel whenever you want to create a new policy or plug loopholes in an old one? Every month **School Policy Legal Insider's** editors bring you field-tested policies from the country's best-run school districts.

So you learn from others' mistakes, rather than repeat them! For example:

- ▶ A high school principal thought his policy on safeguarding student records was air-tight--until a noncustodial parent stormed into his office demanding her son's transcript. If that principal had the **Insider's** School Records Policy (based on a proven Boston model), he would have known exactly what to say to ensure FERPA compliance--and avoid a shouting match.
- ▶ Compare the **Insider's** Model Field Trip Policy with yours. Ours sets up a series of checkpoints and staffs them with monitors, so you don't wind up like the New York City school where a 6th grader wandered away from her class field trip and was raped. Result: A \$2.25 million judgment.
- ▶ See how a Florida school tightened its Student Discipline Policy when students began circulating an "underground" newspaper full of tasteless humor about the faculty and minorities. You may want to plug the First Amendment loophole in your current policy.

USE OUR MODEL LETTERS, MEMOS,
FORMS AND CONTRACT LANGUAGE

How often do you wrestle with the wording of important letters and memos? You want to say the right thing. More importantly: You don't want to say the wrong thing!

Let **School Policy Legal Insider** give you a leg up. Month after month, we cure your nasty legal headaches with just the right language. It asserts your rights... cuts your risks... and won't compromise your position. For example:

- ▶ An irate mother complains about inadequate athletic supervision, which she says led to her son's injury. How do you reassure her that appropriate safeguards will be taken, without admitting to past negligence? The **Insider's** Model Letter lets you tread the thin line safely.

- ▶ Use the **Insider's** Model Bid Request to cut the best deal with equipment lessors. Our model establishes a bidding timetable... prevents bait-and-switch tactics... sets a cost-variance leeway... demands a purchase option... and gets quotes for different lease lengths and payment periods. Plus, learn the five "sucker statements" you must never make in a bid request.
- ▶ Don't settle for substandard work from a sloppy contractor. Scare him into doing the job right--and fast--with a legally binding ultimatum to replace him and backcharge him for any added costs. You're in the driver's seat with the **Insider's** Defective Work Notice.

DON'T GET BLINDSIDED BY CHANGES IN THE LAW

Education law changes constantly. New regulations come out, requiring you to revamp your programs.

And court decisions force you to rethink your procedures or run the risk of liability.

Count on **School Policy Legal Insider** to keep you up-to-date on the latest changes in education law. We know your degree is not in law, so we translate the law into plain English. And we lay out your options.

Result: You are never caught off guard. You plan ahead to avoid risks when they are still down the road. And, when you have to call counsel, you are up to speed, zeroing in on the right questions and understanding the answers.

Plus, the **Insider's** exclusive "Winners & Losers" column shows you how school districts are faring in court. You "go to school" on their mistakes and see how to avoid the costly traps they fell into.

WHY GO IT ALONE? LET THE INSIDER WORK FOR YOU!

I think by now you can see that **School Policy Legal Insider** is unique.

It's not just another "news"-letter that you read. It's

(over, please)

a precision tool you use: to fix things... solve problems... and break new ground.

The **Insider** doesn't just rattle off one dull court case after another. It translates the law into clear usable guidelines.

Then it gives you the model policies, letters, and forms, etc., that empower you to implement well thought-out programs and systems.

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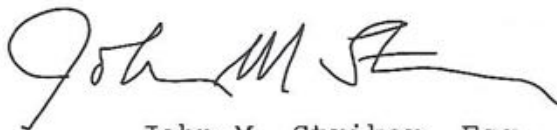
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I'll send you the next issue for your approval. Review it carefully. Put some of our model policies, forms, letters, etc., to work in your school. If for any reason--or for no reason--you decide the **Insider** is not for you, write "cancel" on our invoice and you'll owe nothing. Keep your issue--FREE.

But if you find **School Policy Legal Insider** to be as useful as I think you will, simply honor our invoice. As a new subscriber, you get our special discount rate of only \$195--\$60 off the regular price of \$255 for a one-year subscription (12 monthly issues)!

Why delay? Send for the only monthly newsletter for educational administrators that shows you where the loopholes are in your policies--and how to plug them! You'll be glad you did.

Sincerely,



John M. Striker, Esq.
Publisher

P.S. 100% Money-Back Guarantee! If you ever feel **School Policy Legal Insider** is not absolutely ESSENTIAL to helping you identify and plug loopholes in your policies, you can cancel and receive a full refund at any time during the first year of your subscription--even in the 12th month!--with no questions asked.

Plug School Policy Loopholes

SCHOOL POLICY *legal insider*

The Plain English Guide for School Administrators

INSIDE THIS ISSUE

Tighten Your Internet Policy or Risk Costly Claims

A sloppy Internet use policy exposes you and your school to costly liability. Here are five addendums to plug:

- Model Internet Use Policy (Check your Policy Against This) (p. 2)
- Model Parent Permission Form: Six Parents to Assume Risk of Student Exposure to "Objectable" Materials (p. 3)

Disabled Students: How to Handle Unilateral, Out-of-District Transfers

Take these steps to avoid paying for the educational placement costs.

- Model Parent Acknowledgment Form (p. 5)

Megan's Law: How to Warn Students About Convicted Sex Offenders

What to do when an offender is released in your district. Pushing pictures. Warning notices.

Schools in Court

- Pennsylvania School Ruled \$21,000 in IDEA Dispute
- \$15 Million Volleyball Injury Verdict (Continued)
- School Pays \$2.5 Million to Student Based on Field Trip
- No Duty to Protect Student After Disenfranchising from School Bus
- Priest's Benediction Didn't Violate First Amendment
- OK to Let Teachers Union the District Mailing List

Prevent Renovation Contractor from Interfering with Students

We'll show you how to avoid liability by keeping workers away from students during school hours.

- Model Construction Scheduling Clause (p. 10)

Tighten Your Internet Policy or Risk Costly Claims

What mischief are your students up to, right now, on the Internet?

- Is Jimmy exchanging e-mail with a pedophile?
- Is Nancy creating a Web page advocating violence against doctors who perform abortions?
- Is enterprising Bill selling copyrighted photos downloaded from Playboy's Web site?
- Does your school's Internet use policy give you the power to stop Internet abuses like these—and head off liability for your school? Not if your policy, like so many others, contains five common loopholes.

Close Five Internet Policy Loopholes

Check your school's policy for the following five loopholes. Then consider upgrading it. We've included a Model Policy on p. 2 and a parental permission form on p. 3. The policy was drafted with the help of Michael McGuire, an education attorney with the Minnesota law firm of Rider, Bennett, Egan & Arundel.

- 1) **Parents can sue you.** When minor students encounter "objectionable" material on the Internet, parents may sue. Your best defense is a Parental Permission Form acknowledging the risk that their child may encounter "objectionable" material. In most cases, says McGuire, a good Parental Permission Form can absolve the school from blame. But many schools fail to get signed Parental Permission Forms.

Result: Parents retain their right to sue your school.

- 2) **Student privacy violated.** To shut down an offensive student Web site or protect children from online sex offenders, your Internet Use Policy must empower you to monitor student Internet use. Otherwise, eavesdropping on, say, student e-mail "in-boxes" or "out-boxes" may violate a student's privacy rights. Result: Instead of heading off school liability, your monitoring efforts may lead to liability.

- 3) **FERPA Violation Risks Federal Funds.** Under the Family Educational Rights and Privacy Act ("FERPA"), parents have the right to inspect student records, which may include e-mail and records of material downloaded from the Internet. But many Internet Use Policies don't have procedures for organizing and providing these records. Result: your school risks lawsuits from parents and loss of federal funds.

- 4) **Accidental Copyright Infringement.** Most students know nothing about copyright. Yet many of the Internet Use Policies we've seen fail to bar copyright infringement. And if one of your students innocently downloads copyrighted materials—even without your knowledge—your school may be liable. Check out the way our Model Policy discourages accidental copyright violations by explaining—and banning—illegal copying.

(continued)

Avoid Costly Lawsuits

Get Model Policies, Letters, Forms and More

Discipline Staff and Students Legally

Resolve Disputes with Parents

Protect Students from Harm

Keep Contractors on a Short Leash

**Free
Trial
Issue!**

The *Insider* is different. You don't just read it. You use it. It solves your problems with "how-to" advice, plus model policies, letters, and forms.

Use School Policy Legal Insider

Run your school better—and avoid liability—with proven school policies from the best-run schools nationwide, plus exclusive “working tools” like the three examples below.

MODEL PROCEDURE

Plug Overlooked Sexual Harassment Policy Loophole

The best sexual harassment policy in the world won't help you if it lacks one key ingredient: a complaint procedure carefully designed to accommodate complaints. The absence of such a procedure, clearly spelled out, can undermine the rest of the policy and lead to liability. Notice how the Model Harassment Complaint Procedure below tells both staff and students:

1) who's in charge of handling complaints (we list three people specially chosen to encourage victims to come forward); and
2) seven steps that will be taken to investigate and resolve all complaints.

HARASSMENT COMPLAINT PROCEDURE

1. [Insert name of your school; employees and students shall refer all harassment complaints to one of the following three Designated Officials:
A. _____
B. _____
C. _____
2. The Designated Official handling the complaint shall investigate the complaint as soon as possible, informing only [insert names of school officials with a "need to know"] about the complaint. The Designated Official shall take all reasonable steps to safeguard the identity of the accused and the complainant.
3. The Designated Official receiving the complaint shall interview the complainant, the accused, and all witnesses or other persons with knowledge of the alleged harassment.
4. The Designated Official handling the complaint shall record all interviews and other aspects of the investigation. This information, and any other materials used to document the investigation, shall be retained in perpetuity.

MODEL PROCEDURE

Alert Staff of Danger to Student

When a parent shows you a “restraining order” preventing a violent spouse or partner from contacting a student, you have to take decisive steps to ensure the barred parent doesn't reach the student on school grounds. Otherwise, the parent with the restraining order can hold you and the school legally responsible. Here's a memo to give to teachers and other school staff when a parent shows you a valid “restraining order.” The memo tells

staff about the order and lists the expiration date. It instructs staff to call the police if they see the spouse or partner on school grounds and what to do when the police arrive. Talk to your attorney about adopting this memo for your own use. The memo was prepared with the help of school security expert Norman Bates, from Liability Consultants, Inc. in Sudbury Mass.

MEMO TO SCHOOL STAFF

To: School Staff
From: Jane Principal
Date: March 6, 1999
Re: VERY IMPORTANT: Restraining Order

The mother of a student in our school has obtained a restraining order against her husband. A restraining order is issued by a court when the court finds that one person poses a threat to another one. It orders the potentially dangerous person to stay away from the other one, and his/her children. The court in this instance ruled that the husband posed a threat to the safety of the mother and her child.

MODEL FORM

Get approval for School Nurse to Administer Medication

Shield your school from liability if a student taking medication in school suffers an adverse reaction. Before you let a student take such medication or permit a school nurse to administer it, have the student's doctor and parents fill out the form below. It should be renewed by them annually.

AUTHORIZATION TO ADMINISTER MEDICATION TO STUDENTS

Student's Name _____ Date of Birth _____
Address _____
Parent/Guardian's Name _____ School _____
Telephone _____ Teacher _____
Dates _____

Part I: Physician's Statement:

1. Name/type of medication _____
2. Dosage/amount to be administered _____
3. Frequency/time to be administered _____
4. Duration (if of weeks or months) _____
5. Date when medication should be initiated _____
6. Date when medication should be terminated _____
7. Special instructions for administering medication (e.g., with meals, etc.) _____
8. Specific instructions for storage of medication _____
9. The student can/cannot force and self-administer medication. _____
10. Possible reaction to medication (e.g., nausea, side effects, etc.) _____
11. Physician's name Telephone Physician's State Registration # _____

Physician's signature _____
Physician's address _____
Date Signed _____

Part II: Parent/Guardian's Request/Approval:

1. I hereby authorize the Board of Education and/or Department of Health to permit the administration of this medication to my child.
2. I hereby authorize my child to self-administer this medication in cases where it has been stored in school.
3. I hereby release the Board of Education and the Department of Health from any and all liability arising from the administration of this medication.

Parent/Guardian's signature _____

Date signed _____

Model policies and step-by-step procedures that translate tricky new laws and scary court decisions into clear action guidelines. Best of all, you can begin using them immediately—with confidence.

Get results when you write letters and staff memos. The *Insider's* exclusive “working tools” help you say the right thing without compromising your legal position.

It's like having top flight counsel on call! With the *Insider's* model forms and agreements, you deal with staff, parents, vendors, etc. from the strongest possible position.

Cut Your Risks

- ◆ Promote safe athletics. Avoid costly sports injuries. The *Insider's* Model “Safe Sports” Policy shields you from huge liability.
- ◆ Screen out sexual predators with legal interview questions. Negotiate the hiring mine field safely. Follow the *Insider's* Model Interview Checklist.
- ◆ Don't let an innocent FERPA violation cost you your federal financing. Here's a 10-point checklist to ensure proper handling, distribution, and safeguarding of student names, addresses, Social Security numbers, grades, class rank, and other sensitive student data.

Discipline Students and Staff Legally

- ◆ Surprise! You can't keep BB guns out of school. Not if your policy on weapons contains an all-too-common loophole. Plug it now with the *Insider's* Model Weapons Policy.
- ◆ Time to crack down on school bus rowdies? Adopt the *Insider's* school bus surveillance procedure—complete with forms for drivers to fill out daily. Plus legal guidelines for using video cameras.
- ◆ Don't let uncaring or incompetent staff sneak by year after year. Plug the loopholes in your staff policies that let a Minnesota custodian who twirled kids by their wrists escape disciplinary action.
- ◆ Want to ban gang colors, vulgar T-shirts, scanty clothing, and body rings? Afraid of provoking protest and a First Amendment challenge? Discover the right approach in the *Insider's* Model Dress Code.
- ◆ What are kids hiding in those baggy pants, hooded sweatshirts, and backpacks? Search and seize beepers, cell phones, and other prohibited items without resistance. Use the *Insider's* Model Student Search Policy.

Win Disputes with Parents

- ◆ Before you meet with a potentially violent parent, take the five precautionary steps outlined in the *Insider's* “Difficult Parent” Policy. It defuses hostile situations before they explode.
- ◆ How to convince disbelieving parents that Johnny is a troublemaker. Follow the *Insider's* four-step procedure for reporting disciplinary problems and their remedies. It breaks through to parents—and enlists their help.

er to achieve 7 key goals

- ◆ Three proven tactics for discouraging district-jumping. How to tell which parent a child really lives with.

Handle New IDEA Requirements

- ◆ Find out how to enlist parents in the "assessment process"... how other districts handle "inclusion"... how to prepare for "due process" hearings. Use the *Insider's* model notices and letters.
- ◆ Follow the *Insider's* seven guidelines for writing litigation-proof Individual Education Programs.
- ◆ Discipline kids with slippery disabilities like A.D.D. How to tell when misbehavior is a sign of a disability. The *Insider* reviews hearing officer decisions—and speaks to psychologists—so you know what factors to consider.
- ◆ Don't get hit with unnecessary placement costs for "unilateral transfers." Six money-saving steps to take.

Run a Tight Ship

- ◆ See how other school districts are negotiating tough labor issues like grievance procedures, health benefits, leaves of absence, drug testing, forced retirement, and probationary employees.
- ◆ Terminate employees without taking legal flack. Add the *Insider's* Model At-Will Employment Policy to your employee handbook.
- ◆ Keep students from writing "we-miss-you" letters to suspended staff. The letters can come back to bite you in administrative hearings.

Stop Contractor Rip-Offs

- ◆ Beware of one-sided fine print and boilerplate! The *Insider* exposes contract tricks. And we deal you the legal aces you need to secure the best terms, cut costs, and protect your rights.
- ◆ Heading into renovation hell? Stick the *Insider's* Model Scheduling Clause in the contract. It assures that work won't disrupt the school day or harm students.
- ◆ Get faster responses, better service, and deeper discounts from vendors who plow your parking lot, repair office equipment, collect trash, and clean. Plug office contract loopholes that excuse their screw-ups.

Keep Up on Fast-Changing Laws

New laws, regs, court cases—they change school administration monthly. *School Policy Legal Insider* is your early warning system.

You gain the foresight to plan ahead, because the *Insider* explains the latest developments, including:

- ◆ Family Medical Leave Act
- ◆ Americans with Disabilities Act
- ◆ Latest federal and state court decisions
- ◆ Campus Security Act
- ◆ Individuals with Disabilities in Education Act
- ◆ Section 504 of the Rehabilitation Act
- ◆ Age Discrimination in Employment Act
- ◆ OSHA (Occupational Safety and Health) Asbestos and Lead
- ◆ Paint Disclosure Rules
- ◆ Federal Gun-Free School Act of 1994
- ◆ Title IX of the Education Amendments of 1972
- ◆ Title VII of the Civil Rights Act of 1964
- ◆ 42 U.S. Code Sections 1981 and 1983
- ◆ Plus other essential regulations and codes

About Brownstone Publishers

For 20 years, our nationally recognized newsletters have been simplifying legal jargon for nonlawyers and explaining how to apply model policies to everyday situations, while plugging loopholes.

Our full-time staff of attorneys and specialists are experts at translating legal language into user-friendly, plain English that principals, superintendents, headmasters, deans of students, other educational administrators, and attorneys find easy to read, understand, and use.

Don't just read it... use it!
**To solve your problems... cut your risks... handle staff and students...
and plug the loopholes in your school policies.**

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The Plain-English Guide for School Administrators

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John M. Striker, Esq.
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PLUG SCHOOL POLICY LOOPHOLES

SCHOOL POLICY legal insider

Tighten Your Internet Policy or Risk Costly Claims

When schools are sued for allowing access to the Internet, they are often caught off guard. To avoid this, schools should consider the following:

- **Adopt a policy:** A school's Internet policy should be clear, concise, and easy to understand. It should address the school's goals for Internet use, the types of activities that are allowed, and the consequences for misuse.
- **Get parental consent:** Before allowing a child to use the Internet, the school should obtain written consent from the parent. This consent should include a statement that the parent understands the school's Internet policy and agrees to enforce it at home.
- **Monitor usage:** Schools should monitor Internet usage to ensure that it is consistent with the school's policy. This can be done through software that filters inappropriate content and tracks usage patterns.
- **Provide training:** Schools should provide training for students on safe and responsible Internet use. This training should cover topics such as privacy, security, and digital citizenship.

Check Your Internet Policy

Check to see if your school's Internet policy is up to date. If it is not, consider revising it to reflect current best practices. Also, make sure that the policy is easily accessible to students and staff.

1. Purpose and Scope

The purpose of this policy is to establish guidelines for the use of the Internet in the school. The scope of this policy applies to all students and staff who use the school's Internet resources.

2. Acceptable Use

The Internet may be used for educational purposes, research, and communication. It may not be used for entertainment, social networking, or any other activity that is not in the best interest of the school.

3. Prohibited Activities

The following activities are prohibited:

- Accessing inappropriate websites
- Downloading software without permission
- Sending or receiving harassing or threatening messages
- Using the Internet for illegal activities

4. Consequences

Students who violate this policy may face disciplinary action, including suspension from Internet access and referral to the principal's office. Staff who violate this policy may face disciplinary action, including suspension from school duties and referral to the superintendent's office.

5. Review

This policy will be reviewed annually to ensure that it remains current and effective.

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