

Notification About Student Offenses and Threats of Harm

Educational Service District 112 (ESD 112) is committed to providing a safe and secure environment for all students and employees.

ESD 112 receives notices and information about students that commit criminal offenses from several statutorily authorized sources, including the county sheriff's office, the courts, the department of social and health services, the department of corrections, and school districts where the individual was previously enrolled. The ESD will take appropriate precautionary measures when it receives notices and information of student offenses from any of these sources.

A. Notification of Student Offenses from County Sheriff's Office, Courts, Department of Social and Health Services, Department of Corrections, and Other School Districts

The Superintendent and program directors play an important role in determining and implementing appropriate precautionary measures relating to notices and information about offenses. If the Superintendent or a program director receives information under RCW 28A.225.330 (notifications from other school districts), 9A.44.138 (sheriff notifications to school districts), 13.04.155 (court notifications to school districts), 13.40.215 (department of children, youth, and families notifications to school districts), or 72.09.730 (department of corrections notifications to school districts), about an offense involving a student, the notification provisions in this policy will be followed.

1. Sex Offenses and Registered Sex or Kidnapping Offenders

Upon receipt of information about sex offenses as defined in RCW 9.94A.030, or upon receipt of information about registered sex or kidnapping offenders pursuant to RCW 9A.44.138, the Superintendent will provide the information to the program director. The program director will disclose the information as follows:

- If the student is classified as a risk level II or III, notify every teacher working with the student and any other employees who supervises the student who should be aware of the student's record for security purposes.
- If the student is classified as a risk level I, notify only the employees who, in the judgment of the program director, should be aware of the student's record for security purposes.

The program director will consult and collaborate with department of corrections, juvenile justice staff, treatment providers, victim support groups, and families, as applicable, when working with program students that are required to register as a sex or kidnapping offender.

Convicted Juvenile Sex Offenders Attendance at Victims School

Convicted juvenile sex offenders are prohibited from attending elementary, middle, or high school programs attended by their victims or their victims' siblings. If a victim or victims' siblings is enrolled in an ESD program that is provided in an ESD facility, the convicted sex offender's parents or legal guardians shall be responsible for finding an alternative educational program for offender, working with the Department of Social and Health Services (DSHS) Sex Offender School Attendance Program and Juvenile Rehabilitation Administration.

Inquiries by the Public

Law enforcement agencies receive relevant information about the release of sex and kidnapping offenders into communities and decide when such information needs to be released to the public. ESD 112 employees will refer all inquiries from the public at large (including parents and students) related to sex or kidnapping offenders to law enforcement.

2. Violent Offenses, Firearms and Dangerous Weapons Crimes, Unlawful Possession or Delivery of Controlled Substances, or School Disciplinary Actions

Upon receipt of information about a violent offense as defined in RCW 9.94A.030, or any crime under chapter 9.41 RCW, unlawful possession or delivery, or both, of a controlled substance in violation of chapter 69.50 RCW, the Superintendent will provide the information to the program director. The program director has discretion to share the information with an ESD 112 employee if, in the director's judgment the employee needs the information to supervise the student, to provide therapeutic or behavioral health services to the student, or to refer the student for services.

Program directors and employees should use care not to allow a student's demographic or personal characteristics to bias the decision of whether to share information received.

Upon receipt of information about an adjudication in juvenile court for an unlawful possession of a controlled substance in violation of chapter 69.50 RCW, the program director must notify the student and their parent or legal guardian at least five days before sharing the information with an employee.

If the student or the student's parent or legal guardian objects to the proposed sharing of the information, the student, parent or guardian may, within five business days of receiving notice from the program director, appeal the decision to share the information to the Superintendent.

The Superintendent shall have five business days after receiving an appeal to make a written determination on the matter. Determinations by the Superintendent under this subsection are final and not subject to further appeal.

A program director may not share adjudication information while an appeal is pending.

Public Records Act

Information received by ESD 112 employees under this section may be exempt from disclosure under the public records act (chapter 42.56 RCW) and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994 (20 U.S.C. Sec. 1232g et seq.).

Assignment of Offenders to Certain Classrooms

A student alleged to have committed, or convicted of, an offense under chapter 9A.36 (assault), 9A.40 (kidnapping, unlawful imprisonment, custodial interference, luring, trafficking, and coercion of involuntary servitude), 9A.46 (harassment), or 9A.48 RCW (arson, reckless burning, and malicious mischief) shall not be assigned to a classroom of an employee who was the intended victim of the student's criminal offense.

B. Notification of Threats of Violence or Harm and Liability

Students and ESD 112 employees who are subjects of threats of violence or harm will be notified of the threats in a timely manner. "Threats of violence or harm" means direct or indirect communications by any means of the intent to inflict physical harm upon a specific individual or individuals or that place a person in fear of the imminent likelihood of serious harm.

ESD 112 will assess and address potential threats of violence or harm in a manner consistent with School-Based Threat Assessment, other safety policies, and comprehensive safety plans. In instances where the threat is deemed moderate risk or high risk, or requires further intervention to prevent violence or serious harm, the program director shall notify the parent and/or guardian of any student who is the target/recipient of a threat as well as the parent and/or guardian of any student who made the threat. ESD 112 will ensure that the notice is in a language the parent and/or guardian understands, which may require language assistance for parents or guardians with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

If there is a specific and significant threat to the health or safety of any individual, ESD 112 may disclose information from education records to appropriate parties whose knowledge of the information is necessary. Timing and details of the notice will be as extensive as permitted by the federal Family Educational Rights and Privacy Act, other legal limitations, and the circumstances.

C. Immunity

ESD 112 employees who, acting in good faith, provide notice of a significant threat to an individual's health or safety, or releases information in compliance with federal law, state law and ESD board policies, are immune from any liability arising out of such notification. A person who intentionally and in bad faith or maliciously, knowingly makes a false notification of a threat under this section is guilty of a misdemeanor punishable under RCW 9A.20.021. ESD employees who release information or provide false notice of a threat in bad faith or with gross negligence are not immune from civil liability and will be subject to discipline, up to and including termination of employment.

D. Notification of Criminal Action

Upon receiving a report that a criminal action is alleged to have been committed against a student in an ESD program operated in ESD facilities, including if there has been a shooting on ESD property, or that a student has been detained based on probable cause that they were involved in criminal activity on ESD property during the school day, the program director or other ESD employee will immediately notify the student's parents or legal guardians.

Legal References

RCW 13.04.155 Notification to designated recipient of adjudication or conviction – Information exempt from disclosure

RCW 13.40.215 Juveniles found to have committed violent or sex offense or stalking – Notification of discharge, parole, leave, release, transfer, or escape – To whom given – School attendance – Definitions

RCW 28A.600.460 Classroom discipline – Policies - Classroom placement of student offenders – Data on disciplinary actions

RCW 28A.605.005 Parental rights

RCW 4.24.550 Sex offenders and kidnapping offenders – Release of information to public – Web site

RCW 9A.44.130 Registration of sex offenders and kidnapping offenders – Procedures – Definition – Penalties

*RCW 28A.225.330 Enrolling students from other districts —
Requests for information and permanent records — Immunity
from liability — Rules*

*RCW 28A.320.128 Notice and disclosure policies — Threats of
violence — Student conduct — Immunity for good faith notice —
Penalty*

RCW 28A.320; 2020 c 167 § 1 – Notification provisions

*RCW 72.09.345 Sex offenders — Release of information to protect
public — End-of-sentence review committee — Assessment —
Records access — Review, classification, referral of offenders —*

Issuance of narrative notices

WAC 392-400 Student Discipline

*20 U.S.C. 1232g; 34 C.F.R. Part 99 Family Educational Rights and
Privacy Act Article IX, Section 1, Washington State Constitution*

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