

## **Notification and Dissemination of Information About Student Offenses and Notification of Threats of Violence or Harm**

ESD 123 is committed to providing a safe and secure environment for all its students and staff. All students, including those who have committed or been adjudicated for offenses, have constitutional rights to public education.

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

ESD 123 receives notices and information about student offenders 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 student was previously enrolled. ESD 123 will take appropriate precautionary measures when it receives notices and information of student offenses from any of these sources. Student discipline, if any, will be consistent with 3241 – Student Discipline.

The superintendent, or his/her designee, and program administrators play an important role in determining and implementing appropriate precautionary measures relating to notices and information about student offenses. If the superintendent, a designee of the superintendent, or a program administrator receives student offense 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), the following notification provisions will be followed.

1. Sex Offenses and Registered Sex or Kidnapping Offenders.
  - a) Superintendent or Designee. Upon receipt of information about sex offenses as defined in RCW 9A.04.030 or upon receipt of information about registered sex or kidnapping offenders pursuant to RCW 9A.44.138, the superintendent or his/her designee will provide the information to the program administrator where the student is enrolled or will enroll—or, if not known, where the student was most recently enrolled.
  - b) Program Administrators. When the program administrator receives the information described above, he or she must then disclose the information as follows.

If the student is classified as a risk level II or III, the program administrator shall provide the information received to every teacher of the student and to any other personnel who, in the judgment of the program administrator, supervises the student or for security purposes should be aware of the student's record.

If the student is classified as a risk level I, the program administrator shall provide the information received only to personnel who, in the judgment of the program administrator, for security purposes should be aware of the student's record.
  - c) Convicted Juvenile Sex Offenders Attendance at Victims Program. Convicted juvenile sex offenders are prohibited from attending the program attended by their victims or their victims' siblings. The parents or legal guardians of the convicted juvenile sex offender shall be responsible for providing transportation or covering other costs associated with or required by the sex offender's change in the program.

The Department of Social and Health Services (DSHS) Sex Offender School Attendance Program assists with ensuring that juvenile sex offenders, committed to Juvenile

- Rehabilitation Administration (JRA), do not enroll in the same program as their victim or their victims' siblings. If there is a conflict in programs, DSHS program staff will work with JRA to have the offender moved to another program.
- d) Collaboration. The program administrator or designee will consult and collaborate with the department of corrections, juvenile justice staff, treatment providers, victim support groups, and families, as applicable, when working with students required to register as a sex or kidnapping offender.
  - e) 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. Therefore, ESD 123 and program staff will refer all inquiries by the public at large (including parents and students) regarding students required to register as a sex or kidnapping offender directly to law enforcement.
2. Violent Offenses, Firearms, and Dangerous Weapons Crimes, Unlawful Possession or Delivery of Controlled Substances, or Disciplinary Actions.
- a) Superintendent or Designee. Upon receipt of information about a violent offense as defined in RCW 9.94A.030, any crime under chapter 9.41 RCW, unlawful possession or delivery, or both, of a controlled substance in violation of chapter 69.50 RCW, or disciplinary action, the superintendent or designee will provide the information to the program administrator of the program where the student is enrolled or will enroll—or, if not known, where the student was most recently enrolled.
  - b) Program administrators. When the program administrator, receives the information described above, he or she, has the discretion to share the information with an ESD 123 staff member if, in the program administrator's judgment, the information is necessary for:
    - The staff member to supervise the student;
    - The staff member to provide or refer the student to therapeutic or behavioral health services; or
    - Security purposes.

Program administrators and staff should use care not to allow a student's demographic or personal characteristics to bias the decision of whether to share the information received. Upon receipt of information about an adjudication in juvenile court for unlawful possession of a controlled substance in violation of chapter 69.50 RCW, the program administrator must notify the student and the parent or legal guardian at least five days before sharing the information with an ESD 123 staff member.

If either the student or the student's parent or legal guardian objects to the proposed sharing of the information, the student, the student's parent or legal guardian, or both, may, within five business days of receiving notice from the program administrator, appeal the decision to share the information with staff to the superintendent of ESD 123 in accordance with procedures developed by ESD 123.

The superintendent shall have five business days after receiving an appeal under the above 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 administrator may not share adjudication information under this subsection with an ESD 123 staff member while an appeal is pending.

3. Public Records Act.

Any information received by ESD 123 staff under this section is 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.).

4. Assignment of Student Offenders to Certain Classrooms.

A student committing 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) when the activity is directed toward the teacher, shall not be assigned to that teacher's classroom for the duration of the student's attendance at that program or any other program where the teacher is assigned.

A student who commits 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), when directed toward another student, may be removed from the classroom of the victim for the duration of the student's attendance at that program or any other program where the victim is enrolled.

## **Notification of Threats of Violence or Harm**

Students and program 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 123 will assess and address potential threats of violence or harm in a manner consistent with Policy and Procedure 3225 – Program-Based Threat Assessment, other safety policies, and comprehensive safe school 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 administrator 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 123 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 a student or other individuals, ESD 123 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.

ESD 123 may use information about a threat of harm or violence in connection with student discipline consistent with Policy and Procedure 3241 – Student Discipline.

ESD 123, board, officials, and program employees providing notice in good faith as required and consistent with the board's 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.

## **Immunity**

Any ESD 123 employee who releases the information in compliance with federal and state law is immune from civil liability for damages unless it is shown that ESD 123 employee acted with gross negligence or in bad faith.

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**Reference:**

[RCW 4.24.550 Special rights of action and special immunities](#)  
[RCW 9A.44.130 Sex offenses](#)  
[RCW 13.04.155 Basic juvenile court act](#)  
[RCW 13.40.215 Juvenile justice act of 1977](#)  
[RCW 28A.225.330 Compulsory school attendance and admission](#)  
[RCW 28A.320.128 Provisions applicable to all districts](#)  
[RCW 28A.600.460 Classroom discipline—Policies—Classroom placement of student offenders—Data on disciplinary actions.](#)  
[RCW 28A.320 Provisions applicable to all districts](#)  
[RCW 72.09.345 Department of corrections](#)  
[WAC 392-400 Student discipline](#)  
[20 U.S.C. § 1232g Family educational and privacy rights; 34 C.F.R. Part 99 Family educational rights and privacy](#)

**Cross References:**

[Policy 2161 - Special Education and Related Services for Eligible Students](#)  
[Policy 2162 - Education of Students with Disabilities Under Section 504 of the Rehabilitation Act of 1973](#)  
[Policy 3225 - Program-Based Threat Assessment](#)  
[Policy 3231 - Student Records](#)  
[Policy 3241 - Student Discipline](#)  
[Policy 5281 - Disciplinary Action and Discharge](#)