#### LINCOLN CONSOLIDATED SCHOOLS

# Ypsilanti, Michigan

# BOARD OF EDUCATION / REGULAR MEETING/BOARD WORKSHOP

February 11, 2019 6:00 p.m.

Media Center- High School

#### **OFFICIAL MINUTES**

#### **BOARD MEMBERS PRESENT**

Yoline Williams, President Jennifer LaBombarbe, Secretary Thomas Rollins, Treasurer Connie Newlon, Trustee Allison Sparks, Trustee Laura VanZomeren, Trustee

#### **ADMINISTRATORS PRESENT**

Nicole Holden, High School Principal Robert Jansen, Bishop Principal Mary Aldridge, Childs Principal Kerry Shelton, Model Early Childhood Center Principal Robert Williams, Student Services Director

#### **OTHERS PRESENT**

Edgar Brown, Jim Harless, Jennifer Pocock, Tracy Lazarski, Paula Robinette, Karen Cook, Larry Vanderbergen, Amy Stamps and Charlotte Allum

#### 1.0 CALL TO ORDER

President Williams called the meeting to order at 6:0 p.m. in the Media Center at the High School.

#### 2.0 ROLL CALL

Roll call showed all Board Members were present with the exception of Jennifer Czachorski.

# 3.0 ESTABLISHMENT OF QUORUM

A quorum was established.

# 4.0 PLEDGE TO FLAG

The Pledge of Allegiance was recited by Board and audience members.

# 5.0 ACCEPTANCE OF AGENDA

It was moved by LaBombarbe and seconded by Rollins that we accept the agenda as presented.

Ayes: 6 Nays: 0

Motion carried 6-0

#### 6.0 PUBLIC COMMENTS

Larry Vanderbergen addressed the Board of Education inviting them to attend Band and Orchestra Festival to be held March 2, 2019, at Lincoln High School, starting at 8:00 a.m.

## 7.0 BOARD WORKSHOP

#### 7.1 Presentation #1

Restorative Practices (Power Point attached)

#### 7.2 Recess

Minutes February 11, 2019 Board Workshop Page 2

5-minute recess

# 7.3 Presentation #2

Title IX (Power Point attached)

# 8.0 SUMMARY DISCUSSION

# 9.0 ADJOURNMENT

It was moved by LaBombarbe and seconded by Sparks that we adjourn the meeting at 8:13 p.m.

Ayes: 6 Nays: 0

Motion carried 6-0



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#### Lincoln Consolidated Schools **Board of Education**

Legal Workshop ebruary 11, 2019

Amented by
Brid Barack, Legal Coursel
Michigan Association of School Sparts

#### Why use Restorative Justice?

- Plays a key role in facilitating a student discipline system that is nondiscriminatory and fair.
- · Data showing significant and unexplained racial disparities in student discipline, MASB namely suspensions, give rise to concerns of racial discrimination that violate Title IV and Title VI.



#### Goals of Restorative Justice

- Can turn the discipline process into a learning opportunity and help build strong, lasting relationships between students, school staff, families, and members of the community.
- Keeps students in the educational setting, holding them responsible as members of their school community.

# Overview • Introduction to Restorative Justice Title IX Overview · Questions and Conclusion



#### Why use Restorative Justice?

- Studies have shown that high suspension rates negatively impact students' academic progress and lead to lower test scores and higher dropout rates.
- With the restorative approach, student discipline is handled constructively rather than punitively, an approach much more likely to keep students in school.



#### Goals of Restorative Justice (cont.)

- Engaging in respectful discussion designed to explore what happened to create the harm, who has been affected and how and what is needed to heal the harm, students learn the impact of their actions and help decide how to make things right with the victim and any other affected.
- Students who participate in the process are more likely to gain positive attitudes toward authority and to the concepts of fairness and justice,

#### What is Restorative Justice?

An approach to addressing conflict and misconduct that focuses on healing rather than punishment.



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- Assumes that misconduct and conflict Injure those directly involved as well as the broader community to which they belong.
- Rather than relying on punishment, It expects those who cause injuries to make things right with those they have harmed and with their community.



#### Why use Restorative Justice?

- · Plays a role in enhancing students' experiences in public schools.
- Allows student offenders an opportunity to not only discuss what motivated their behavior, but also how their behavior negatively impacted themselves and others, increasing the wrongdoer's awareness and decreasing recidivism.



# Comparisons

**Punitive** Misbehavior defined as breaking school rules or letting the school down Misbehavior defined as harm done to one person/ group by another

Focus is on what happened MASB and establishing blame or guilt Focus on problem-solving by expressing feelings & needs—eddressing future problems Adversarial relationships and Dialogue and negotiation,

process - authority figure in CON er uncleasantness to punish and deter/prevent

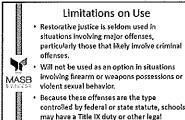
with everyone involved in the communication Restitution as a means of restoring both parties - goel is reconditation ::

Restorative

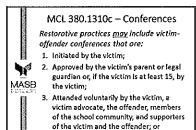
#### Comparisons **Punitive** Restorative Attention to rules and Attention to relationships adherence to due process and achievement of a mutually desired outcome Confect/Attorgdoing Conflict/invonzdoing represented as Impersonal MASB and abstract ["we'v them"] recognized as interpersonal conflicts (learning opp.) One social injury compounded by another Focus on repair of social Prjury/damage Accountability defined in Accountability = understand

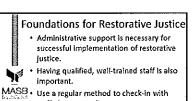
Ing impact of actions & suggesting solutions

terms of receiving punishment



responsibility to address them accordingly.





staff about regarding progress.

expulsions.

Be prepared to collect data on discipline

referrals as well as suspension and

10 380.1310c MASB · Before suspending or expelling a student, a school board, school principal or other designee shall consider...whether restorative practices will be used to address the violation or behavior committed by the pupil. MCL 380.1310d

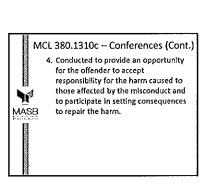
Restorative Practices- MI Law

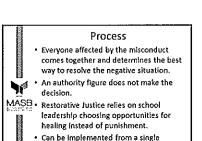
emphasize repairing the harm to the

victim and the school community caused

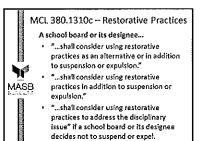
<u>Legal Definition</u>. "Practices that

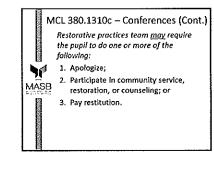
by the pupil's misconduct." MCL





program to a school-wide approach.





#### **FERPA Compliance**

- The conferences do present a student privacy concern.
- Under the Family Educational Rights and Privacy Act (FERPA), districts should seek written consent to disclose students'
   MASB
  - Conference members should be listed as "school officials" in FERPA notice.
  - Consider having conference members sign nondisclosure agreements.

#### Implementation: 6 Steps

- Assessing whether the restorative justice philosophy will work for your learning community and if leadership can shift paradigms from punishment to healing the harm.
- Considering whether to implement one or all MASB components of restorative justice.
  - 3. Obtaining staff buy-in.
  - Identifying a core staff/team to ensure fidelity in Implementation.
  - 5. Training staff on restorative justice in schools
  - 6. Establishing a method for data collection.

#### Three-Tiered Model

 The prevention stage utilizes teachers, students, and the community to build and promote social and emotional skills that serve as an initial barrier to rules violations, conflict, or wrongdoing.

- \* The second tier of the model focuses on addressing rule violations with the wrong-doer in a constructive, non-punitive way.
  - The supported reentry tier assists the student in reintegrating into the school environment in a way that sets the student up for success.

#### MCL 380.1310c - Offenses

Restorative practices should be the first consideration to remediate offenses such as:

- Interpersonal conflicts
- Bullying
- Verbal and physical conflicts
- Theft

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- Damage to property
- Class disruption
- · Harassment and cyberbullying

#### Challenges to Implementation

- Restorative practices may be seen as ineffective or too lenient on students who break the rules.
- Restorative programs take more time than the traditional disciplinary actions of suspension and expulsion.
  - Restorative practices may also require a certain amount of funding, depending on the practices and programming.

#### Circles: Introduction

- Circles bring people together to talk about issues and resolve conflict.
- A trained facilitator, often called the "circle keeper," encourages willing participants to share information, points of view and personal feelings.
- The facilitator may use a talking piece, an object that allows the person in possession the opportunity to speak without interruption.

#### Scope of Implementation

- Schools may Implement restorative Justice gradually into the existing discipline process.
- Districts, schools, and educators can implement restorative justice on a variety of levels, including daily practices such as school-wide check-in circles, informal classroom applications to address misconduct, and more formal practices such as restorative circles and conferences.

#### Different Methods

- Some districts utilize a three-tiered model for restorative justice practices that focuses on prevention, intervention, and reentry.
- Other school districts focus more of their resources on training counselors to adequately address conflicts after they have occurred.
  - Some schools have students and faculty jointly involved in restorative justice committee hearings, whereas other schools have mostly teacher-led and faculty-led justice hearings.

#### Circles: Introduction (cont.)

- By offering opportunities for safe and open communication, circles help resolve conflict, strengthen relationships between participants, emphasize respect and understanding, and empower all parties involved.
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  Circle facilitators, with the permission of school administrators, can also invite family and community members to participate.
  - May be used weekly in classrooms to build community and enhance communication.





# Principles for Forming Circles

- Practice giving and receiving meaningful
- Create a student-generated agenda.
- Foster good communication skills. Learn, understand, and respect differences.
- MASB Explore reasons for why people do what they
  - · Practice role-playing and brainstorming to solve problems.
  - Focus on non-punitive solutions.
  - Ensure confidentiality among participants.

#### Peer Mediation

- Peer mediation involves trained student mediators who assist their peers in settling disputes.
- Students are trained in mediation strategies and apply problem-solving MASB techniques.
  - Can help keep minor incidents from escalating into more serious incidents.
  - Gives students a set of skills that can be applied to future conflicts.

#### Peer Jury: Case Study

- · Brad threw his shoe across the auditorium at another student in front of both his music teacher and the school principal.
- The teacher referred Brad to the discipline office where had a second principal. office, where he was then referred to the MASB school peer jury committee.
  - As the jurors talked to Brad, they learned that he wanted to go to art school after graduation and was having problems with his music teacher.

#### Circles: Case Studies

- In the South St. Paul School District, MN., students in several schools experienced fewer suspensions, expulsions, and behavioral referrals, and greater overall attendance.
- Schools in Peoria, IL., Implemented circles MASB and experienced a 35% drop in referrals to detention, and a 43% drop in detention.

## Peer Jury

- · is a youth-centered program in which student volunteers hear cases of minor delinquent acts or school offenses.
- Peer juries are overseen by an adult coordinates with coordinator with youth volunteers acting MASB as jurors.
  - Police departments, community agencies and probation departments can assist school districts in coordinating peer jury programs.

#### Peer Jury: Case Study (cont.)

- The jurors decided with Brad that he would assist the teacher in setting up for a concert the following week so that he and the teacher could meet outside the classroom and get to know each other better. MASB
  - In addition, Brad agreed to use his artistic talents to make a poster to publicize and recruit students for the school lazz band club.

## Mediation & Conferencing

- Mediation in schools typically resolve disputes between two students.
- Conferencing opens the process to other students, staff, and teachers.
- . Both models are facilitated by a trained mediator and bring together affected parties MASB to develop an appropriate response to the conflict.
  - The programs teach students how to peacefully resolve conflict, hash out misunderstandings, and prevent further conflict.

#### Peer Jury: Process

- Students trained as peer jurors meet with the student referred for a school disciplinary issue.
- · Together, jurors offer guidance and support to the referred student and develop an agreement that outlines MASB actions needed by the student in order to
  - Referred students also may be connected with community resources to address root causes of their behavior.

# Peer Jury: Case Study (cont.)

- · The student and teacher made peace.
- . Brad saw the error of his ways, and his talents were put to use in repairing harm done to the school and music program.
- The poster was later included in Brad's art MASB portfolio and he was accepted by an art school upon graduation.

Submitted by Art Lobi, teacher and peer Jury coordinator at Kelvyn Park High School in Chicago.



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#### **Best Practices**

Recommendations to implement good restorative practices in schools include:

- · Fostering awareness of how all have been affected by behavior and encourage expression of feelings.
- MASB · Avoiding scolding or lecturing.

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- · Allowing individuals to share with each
- Actively involving students.

#### **Title IX Overview**

- Common Title IX Enforcement Topics
- Athletics

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- Sexual Misconduct
- Federal Government Expectations for Schools to Comply with Title IX

#### **Athletics**

**Demonstrating Compliance** The Three-Part Test:



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- The percentage of female athletes to male athletes is proportional to the percentage of female students to male students enrolled in the school.
- The school has a history and continuing practice of expanding opportunities for the underrepresented sex. The school is fully and effectively meeting the athletics interests and abilities of the underrepresented sex.

#### Best Practices (cont.)

- Accepting ambiguity. Fault and responsibility may be unclear.
- · Separating the deed from the doer, recognize students' worth and disapprove of their wrongdoing.
- MASB · Seeing every instance of wrongdoing and conflict as an opportunity for learning.
  - Turn negative incidents into constructive ones by building empathy and a sense of community.

# History

- Signed into law in 1972.
- Now known as the Patsy Mink Equal Opportunity in Education Act.

'No person in the United States shall, on the basis MASB of sex, be excluded from participation in, be deried the benefits of, or be subjected to discrimination made any education program or activity receiving federal financial assistance......



#### History & Continuing Practice of Program Expansion

- If females are underrepresented, program expansion means the addition of girls' teams and/or an increase in quality
- opportunities for girls on existing teams.
- Failure to add opportunities for the under-represented sex during the past several years, combined with no current plan for adding opportunities, would constitute failure to comply with test two.

## Best Practices (cont.)

- Maintain data on referrals made, cases heard, agreements developed, and participants' academic performance.
- · Real change is made through systemic adoption of restorative justice.
- MASB · Consider adopting a policy.
  - A whole school approach is the best way to provide restorative justice, with the entire school community using restorative practices in its daily work.

#### **Athletics**

Equal Opportunities



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- Factites
- Facilities
  Equipment
  Coaching
  Participation Options
  Scheduling
  Scholarships

Girls make up 49% of the population but still only account for 41% of its high school athletes.

# **Athletics**

Demonstrating Compliance

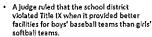
Part Three: "fully and effectively accommodating the athletic interests and abilities of the underrepresented sex."

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- Is there unmet interest in a particular
- Is there sufficient abaty to sustain a team in the sport?
- Is there a reasonable expectation of competition for the team?



Landow v Brevard County School Bd 132 F.Supp.2d 958 (M.D. Fla.2000)



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The Judge pointed to such factors as onrine plage pointed to such rectors as on-campus lighted fields for boys, but not girls, more storage space for equipment for boys, inferior playing fields for girls and the fact that some of the girls team were forced to pick up garbage from the field that was left by transients.

#### Communities For Equity v MHSAA 459 F.3d 676 (6th Cir. 2006)

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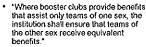
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The Sixth Circuit Court of Appeals found that the MHSAA's scheduling of sports seasons discriminated against female athletes on the basis of gender by violating the Equal Protection Clause of the U.S. Constitution, Title IX, and Michigan's Elliott-Larsen Civil Rights Act.

Further, the Court affirmed that the District Court could retain jurisdiction in the case to supervise the new seasons schedule.

#### Outside Resources (Cont.)

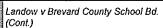


"If booster clubs provide benefits to albletes of one sex that are greater than what the institution is capable of providing to athletes of the other sex, the institution shall take action to ensure that benefits are equivalent for both sexes."

Tide IX Athletics Investigator's Manual

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Girls' Facilities







# "Disadvantageous Seasons"

- Diminished opportunities for athletic scholarships.
- Decreased ability to be nationally ranked or obtain All-American honors.
- MASB Inability to play on private club leams.
  - Inferior playing conditions caused by weather conditions.

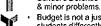
## Focus on Sexual Misconduct

"Vigorous Enforcement"

We will confinue to enforce (Title IX) and vigorously address all instances where people fall short. Sady, too many fall short when it comes to their responsability under Title IX to protect students from sexual misconduct, acts of which are perpetrated on campuses across our nation."

(September 7, 2017) MASB

Landow v Brevard County School Bd. (Cont.)



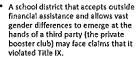
Budget is not a justification for treating students differently.

School's Defense-Financial constraints

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\*Matters that might otherwise be accurately characterized as molehills can assume mountainous proportions when viewed from the perspective of someone who is already subjected to disparate treatment.\*

#### Outside Resources



Title IX regulations caution that to "ald or perpetuate discrimination" by providing "significant assistance" to any organization that provides benefits or services to students is a violation of

#### Focus on Sexual Misconduct

An Emphasis on Balance and Fairness

On September 22, 2017 OCR withdrew the April 4, 2011 Dear Colleague Letter on Serval Violence the April 29, 2014 Q&A On Title IX and Serval Violence.

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Most districts continued to rely on their current Title Diposicles, which were often based on this guidance, however DUE PROCESS datins from the alteged perpetrator could now become an issue.

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#### Sexual Harassment

Unwelcome Conduct of a Sexual Nature

- The student did not request or invite the conduct
- The student regarded it as "undestrable or offensive."
- Acquiescence does not equal MASB we comed.
  - With younger children, it may be necessary to determine to what degree they recognize conduct that they should reasonably object to and the degree to which they can articulate an objection.

#### Sexual Harassment

Harassment that Denies or Limits Student's Ability to Benefit from an Education Program

· Student to student

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- · Staff to student
- · Third party to student
  - Dependent upon the level of "control" the district has over the third party

#### So What Are We Supposed to Do?

If, upon notice, the school falls to take prompt and effective corrective action, its own failure has permitted the student to be subjected to a hostile environment that Emits the student's ability to participate in or benefit from the education program

MASB. In this case, the school is responsible for taking corrective actions to stop the harassment, prevent its recurrence, and remedy the effects on the victim that could reasonably have been prevented had the school responded promptly and effectively

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#### Sexual Harassment

When Must the District Step In?

When sexual misconduct is so severe, persistent, or pervasive as to deny or limit a student's ability to participate in or benefit from the school's programs or activities, a hostile environment exists and the school must respond.

Separate Zintola Color Serva Sense Berran

#### Sexual Harassment

Harassment that Denies or Limits Student's Ability to Benefit from an Education Program



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- Quid-pro-quo propositions
   Overt, easier to assess
- Hostile environment harassment

  - Harder to spot May require further assessment as to whether it is of sufficient seriousness that it denies an educational right

#### **Enforcement**

The Progression of a Title IX Complaint

- Title IX Coordinator (local level).
- United States Department of Education Office of Civil Rights Division (government
- investigation)

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Legal action can sometimes occur simultaneously with a government investigation.



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#### Sexual Harassment

Disparity in Authority Harassment of a student by a district employee can be a Title IX violation.



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- Sexual conduct is always viewed as 'unwelcome" between an adult school
- employee and an elementary student. Sexual conduct between employees and "older" secondary students carries a "strong presumption" that it was not consensual.

#### Sexual Harassment

#### What is OCR Looking For?

If OCR is asked to investigate or otherwise resolve incidents of semial harassment of students, including incidents caused by employees, other students, or third parties, OCR will consider whether:

- superiss, or awar parties, OCH WII consider whether The school has a disseminated policy prohibiting sex disormination under Tide IX and effective grievance procedures. The school appropriately investigated or otherwise responded to allegations of sexual harassmite.
- harassment. The school has taken immediate and effective corrective action responsive to the harassment, including effective actions to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects.

#### Enforcement

Your Title IX Coordinator

- A Title IX coordinator is required by law.
  Students and staff must be notified of who
- this individual is and how to contact them. · Should not be someone whose other job MASB duties might create a conflict of interest.



#### Enforcement

What does the Title IX Coordinator do?

#### Handles Title IX complaints:

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- Evaluates confidentiality requests.
   Develops interim measures for the complainant.
- Reviews the discip®nary consequences involved.
- Coordinates any investigations, records the process, and notes the outcome.
- · Is in a position to recognize patterns and systemic issues and addresses them.
- · Trains the staff and students.

#### Enforcement

Pre-Complaint

#### Good grievance procedures will:

- Designate and follow a reasonable and prompt time-frame for major stages of the process.
  Provide assurance that steps will be
- taken to prevent future recurrences and to remedy the effects.
- Ensure Title IX rights of the Complainant while providing due process rights to both

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#### Enforcement

Post-Complaint

#### Notice

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- Whiten Notice must be provided to the alleged

- Written Notice must be provided to the alleged perpetator (responding party).

  Recount allegation in enough detail to provide an understanding.

  Allow for sufficient time to respond prior to any interview.

  Identify those involved.

  Provide date of alleged occurrence and ofte the code of conduct at issue.

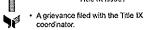
#### Enforcement

#### Pre-Complaint

A school must adopt and publish grievance procedures which provide for prompt and equitable resolutions regarding complaints of sex discrimination or sexual misconduct.

#### **OCR Expectations**

What constitutes "notice" of a potential Title IX issue?



· A complaint made to a teacher or other responsible employee from the student or another individual.

An employee witnesses the behavior.

An employee hears that certain behavior has occurred.

#### Enforcement

Post-Complaint

The investigation

Prompt

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No set firne-frame: Good faith effort to conduct fair and impartial investigation.



#### Enforcement

#### Pre-Complaint

Good grievance procedures will:

- Provide notice of the procedures to the district community.

  Explain how to file a complaint.
- MASB
  - Apply to those filing a complaint against students, staff or third parties. Ensure proper investigations, including the opportunity to present witnesses and evidence.
  - Provide for notification to the parties of the

outcome.

#### **Procedures**

#### Reports

- Anonymous reports of sexual harassment/abuse should always be examined. Consider;
  - Source and nature of the information? Seriousness of the allegation? Specificity? Can we identify those involved?

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- Based upon these factors it may be reasonable to conduct an investigation into complaints from an anonymous source.

# Enforcement

Post-Complaint

The investigation

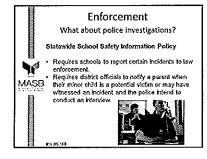


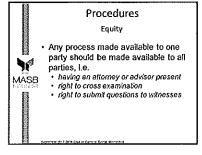
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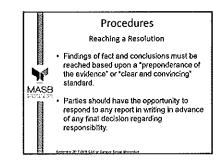
- Trained investigator free of any actual or reasonable conflict of interest.
- All parties have the same rights and opportunities to explain/defend. No "gag orders."
- Take care not to apply stereo-types.

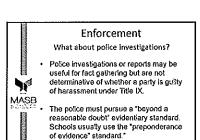


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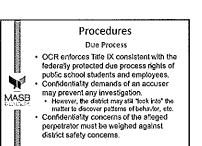


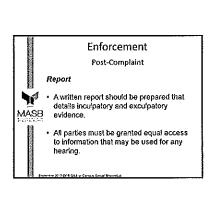


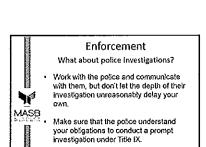


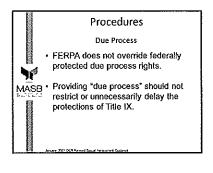


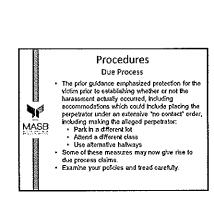
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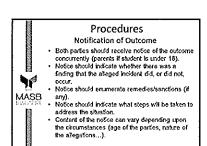


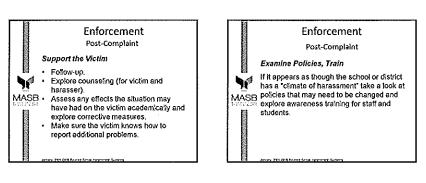


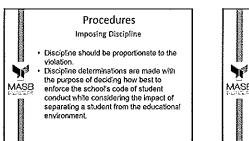


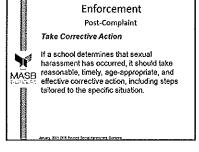


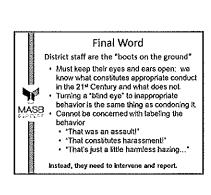


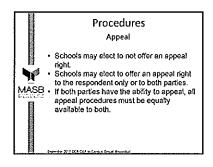












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