

# Managing Contractual Issues in Independent Schools

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# Purpose of Today's Training

- Clarify legal obligations
- Reduce institutional liability
- Strengthen documentation and communication
- Understand escalation and consultation points
- Build confidence in high-risk interactions



# The Legal Landscape for Independent Schools

- Enrollment Contract governs tuition, policies, rights and obligations
- Importance of clear, enforceable language
- Handbooks and policies incorporated by reference
- Tuition-driven expectations and scrutiny

## Common Areas of Contractual Disputes Between Parents and Independent Schools

1. Enrollment Issues tuition refunds, withdrawals, exclusions and disciplinary measures
2. Academic Expectations and curriculum
3. Parental responsibility and involvement including
  - Expectations for parents regarding cooperation with school and support of school's mission
  - parental expectations regarding access and custody agreements.
4. Force majeure and closings

# Enrollment Issues

## Refundability of tuition for withdrawal

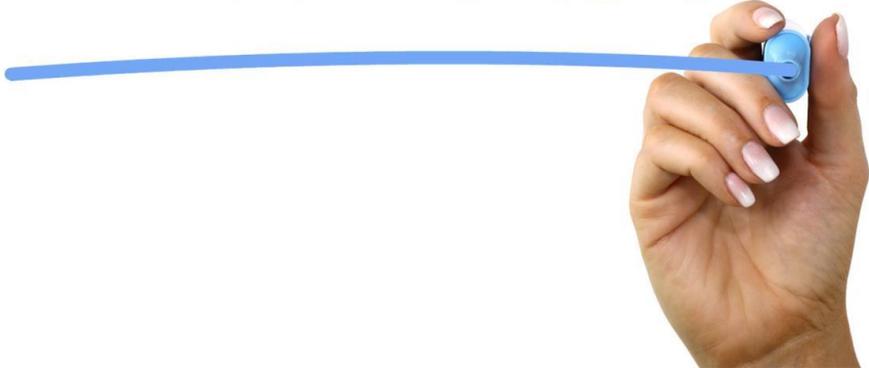
- Importance of clear policies and deadlines
- Responsibility to mitigate loss
- Interplay with tuition payment plans and role of tuition insurance programs.

## Enrollment termination and discipline of students

- Usually upheld unless there is bad faith, discrimination or violation of procedures.
- Should have clear procedure and some due process but can be defined in handbooks and contract itself.

# Contractual Issues Involving Parental Behavior

AGREEMENT  
CONTRACT



- Generally, bound by Code of Conduct and requirements in Enrollment Contract
- Clear expectations set in Codes of Conduct and enrollment contract.
- Ways to address:
  - Persona non grata letters: Should be limited in scope.
  - Warnings
  - Termination of enrollment contracts

# Contractual Issues Relating to Discipline of Students

- Not bound by Due process applicable to Public schools
- But should follow own procedures as set out in Handbook and Code of Conduct
- Consistency in terms of penalties and withdrawal fees

# Contractual Issues Regarding Custody Issues

- Conflicting parental rights and decision-making authority
- Requests for records, communication, and access
- Impact of custody orders and parenting plans
- Safety and liability considerations

# Custody Issues in NYS

- Schools must follow court-ordered custody arrangements
- Acceptable documentation includes:
  - Custody orders
  - Orders of protection
  - Temporary orders
- Verbal claims from parents are not sufficient
- Presumption in New York State unless explicitly stated is shared custody and educational decision making.



# Best Practices for Managing Custody Matters

- Require custody documents at enrollment and updates
- Maintain neutrality between parents
- Define communication and pickup protocols
- Train staff on recognizing custody-related risks

# Curriculum Decisions and Academics

- Courts distinguish between:
  - Educational judgment and
  - Contractual promises
- Usually do not disturb issues of educational or pedagogical judgment
- Risks in these times of inconsistent application of opt-out policies

# Force Majeure and Emergency Operations

- Provision of services remotely or alternatively during emergencies
- Should be incorporated in Handbooks
- Challenges can include that the core educational program is not being provided
- Rationale for programming offered and maintaining core eservices

# Hypothetical 1 — Custody & Communication Rights

- Scenario: Mother requests father receive no information; father later requests records; no documentation provided.



## Hypothetical 2 — Emergency Pickup Dispute

- Scenario: Student ill; father arrives; mother says not to release; custody order silent on school-hour pickup.

## Hypothetical 3 — Mid-Year Withdrawal & Refund

- Scenario: Family withdraws in November; contract includes non-refundable deposit and full-year tuition obligation; family demands refund.

## Hypothetical 4 — Expulsion & Tuition Reimbursement

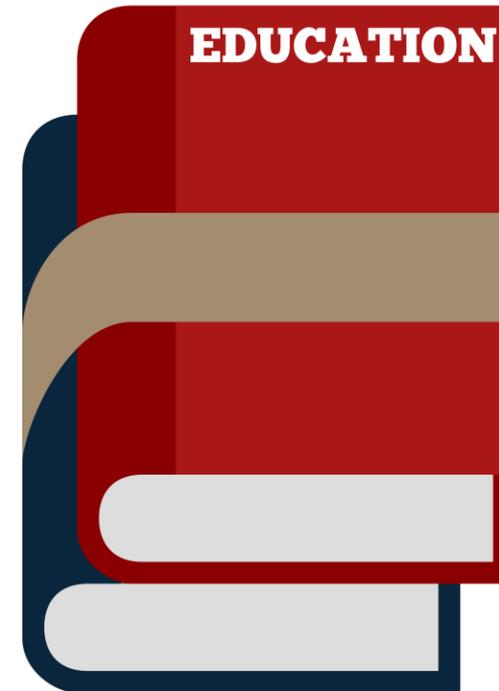
- Scenario: Student expelled in March; parents demand refund; contract includes dismissal clause and no-refund policy.

# Hypothetical 5 — Parent Conduct Issues

- Scenario: Hostile emails, social media posts, confrontations; student performing well; parent-conduct clause exists.

# Hypothetical 6 — Disagreement on Educational Decisions

- Scenario: One parent approves evaluation; the other refuses; joint legal custody.



## Hypothetical 7 – Parent Recording Conversation About Disciplinary Decision Without Consent

- Scenario: A parent arrives unannounced, angry about a disciplinary decision. They begin recording the conversation on their phone without informing you. The parent raises their voice, demands immediate reversal of the decision, and threatens to “go public” on social media.

# Best Practices

- Maintain clarity in all contractual documents, including:
  - Enrollment contracts
  - Tuition plan documents
  - Any additional agreements administrative statements
- Reference written policies
- Avoid unauthorized or unilateral commitments
- Maintain boundaries
- Document interactions
- Stick to the facts in interactions



# Main Takeaway

Courts respect school autonomy SO LONG AS schools follow their own rules and rules are communicated.



# Thank You

The information in this presentation is intended as general background information.  
It is not to be considered as legal advice.  
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