

Chapter 181-88 WAC

DEFINITIONS OF SEXUAL MISCONDUCT, VERBAL ABUSE AND PHYSICAL ABUSE—MANDATORY DISCLOSURE—PROHIBITED AGREEMENTS

WAC

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WAC 181-88-010 Purpose and authority. (1) The purpose of this chapter is to provide the safest educational environment for children and staff and to implement legislative direction by:

(a) Defining the term "sexual misconduct" for purposes of requiring school districts to forward known information about employee sexual misconduct to prospective school district employers; and

(b) Defining "sexual misconduct," "verbal abuse," and "physical abuse" for purposes of prohibiting school districts from entering into any contract or agreement that has the effect of suppressing information about verbal or physical abuse or sexual misconduct by a present or former employee, or has the effect of expunging such information from employer files.

(2) The authority for this chapter is RCW 28A.400.301.

[06-02-051, recodified as § 181-88-010, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.400.301. 04-23-011, § 180-88-010, filed 11/4/04, effective 12/5/04.]

WAC 181-88-020 Employee—Definition. As used in this chapter, the term "employee" means any employee or former employee of a school district, including all classified employees, all certificated employees, and all substitute employees.

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WAC 181-88-030 Student—Definition. For purposes of this chapter, "student" shall have the same meaning as defined in WAC 180-87-040.

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WAC 181-88-040 Verbal abuse—Definition. "Verbal abuse" means the use of malicious or hostile language by an employee that results in harm to another if the school district has determined that there is sufficient evidence to conclude that an employee engaged in the conduct and that it resulted in the employee leaving a position with the school district. Under RCW 28A.400.301, a district is prohibited from entering into any contract or agreement that has the effect of sup-

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pressing information about the abuse by a present or former employee or has the effect of expunging such information from employer files.

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WAC 181-88-050 Physical abuse—Definition. (1) "Physical abuse" means the willful action by an employee of inflicting or attempting to inflict bodily injury against another, or using physical force in excess of what is necessary to restrain a person from harming self or others. To constitute physical abuse, a school district must possess sufficient information to conclude that the employee engaged in the conduct and that it resulted in the employee leaving a position with the school district. Under RCW 28A.400.301, a district is prohibited from entering into any contract or agreement that has the effect of suppressing information about the abuse by a present or former employee or has the effect of expunging such information from employer files.

(2) Authorized use of physical restraints or of aversive interventions consistent with chapter 392-172 WAC shall not constitute physical abuse.

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WAC 181-88-060 Sexual misconduct—Definition. "Sexual misconduct" means:

(1) Any sexually exploitive act with or to a student. Sexually exploitive acts include, but are not limited to, the following:

(a) Any sexual advance, verbal, written or physical.

(b) Sexual intercourse, as defined in RCW 9A.44.010.

(c) Sexual contact, i.e., the intentional touching of the sexual or other intimate parts of a student except to the extent necessary and appropriate to attend to the hygienic or health needs of the student.

(d) Any activities determined to be grooming behavior for purposes of establishing a sexual relationship.

(e) The provisions of (a) through (d) of this subsection shall not apply if at the time of the sexual conduct the participants are married to each other.

(2) Indecent exposure, as defined in RCW 9A.88.010.

(3) Sexual harassment of another as defined under local employer policy.

(4) Commission of a criminal sex offense as defined under chapter 9A.44 RCW.

(5) Sexual abuse or sexual exploitation of any minor as found in any dependency action under chapter 13.34 RCW or in any domestic relations proceeding under Title 26 RCW.

(6) For purposes of this section, sexual misconduct occurs only when a school district determines it has sufficient information to conclude that an employee engaged in the sexual misconduct and it resulted in the employee leaving a position with the school district. Under RCW 28A.400.301, a district is prohibited from entering into any contract or agreement that has the effect of suppressing information about the misconduct of a present or former employee or has the effect of expunging such information from employer files, and a district must forward information regarding sexual misconduct to prospective employing districts.

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