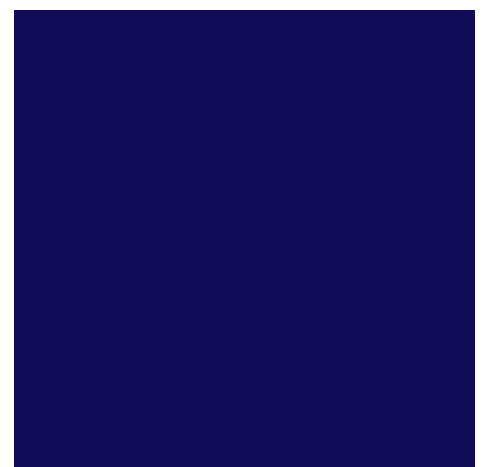




**MASBO  
Conference  
June 2019**



## School Law Overview

Debra Silk, MTSBA Associate Executive Director / General Counsel

# + Employment Contracts

- Certified Employees
  - Superintendents
  - Principals/Assistant Superintendents (Tenured/Non-Tenured)
  - Teachers (Tenured/Non-Tenured)
    - Collectively Bargained
    - Contract Requirements
    - Acceptance and Return of Employment Contract
  - Substitute Teachers (Certified and Non-Certified)
  - Other Administrators

# + Employment Contracts

- Classified Employees
  - Wrongful Discharge Act Employees (WDEA)
  - Employees on a Written Contract for a Specific Term
  - Other Types of Exclusions under the WDEA
  - Damages under WDEA
  - Probationary Period
  
- Coaches

# + General Considerations for All Contracts

- Signing of Employment Contracts
- Distribution and Recordkeeping
- Liquidated Damages Clauses

# + Best Hiring Practices for School Districts

- Advertise Job Openings
- Applications
- Screening and Interview Process
- Hiring Considerations
  - Veterans Preference
  - Criminal Background Checks
  - Employment Reference Checks
  - Pre-Employment Physicals

# + Job Descriptions and Personnel Files

- Job Descriptions
- Personnel Files



# Custodian of Records

## ■ Personnel Files

- The District maintains a complete confidential and permanent personnel record for every current and former employee. The employees' personnel records will be maintained in the District's administrative office, under the Superintendent's direct supervision. Employees will be given a copy of their personnel record upon request.
- The District may release public information regarding the professional qualifications, degrees, and experience of teachers and the qualifications of paraprofessionals to parents upon request. Access to other information is governed by Policy 4340.
- Personnel records must be kept for 10 years after separation of employment.

# + Custodian of Records

- Student Records
  - Confidential
    - Permanent
      - the name and address of the student;
      - is/her parent or guardian;
      - birth date;
      - academic work completed;
      - level of achievement (grades, standardized achievement tests);
      - immunization records as per 20-5-406, MCA;
      - attendance data; and
      - the statewide student identifier assigned by the Office of Public Instruction.
    - Cumulative





# Custodian of Records

- Transfer of Student Records
  - The District will forward by mail or by electronic means a certified copy of a permanent or cumulative file of any student and a file of special education records of any student to a local educational agency or accredited school in which a student seeks to or intends to enroll within five (5) working days after receipt of a written or electronic request. The files to be forwarded must include education records in a permanent file – that is, name and address of a student, name of parent or legal guardian, date of birth, academic work completed, level of achievement (grades, standardized tests), immunization records, special education records, and any disciplinary actions taken against a student that are educationally related.
  - When the District cannot transfer records within five (5) days, the District will notify a requestor, in writing or electronically, and will provide reasons why the District is unable to comply with a five-(5)-day time period. The District also will include in that notice the date by which requested records will be transferred. The District will not refuse to transfer records because a student owes fines or fees.



# Custodian of Records

- Destruction of Records
- **MCA 20-1-212. Destruction of records by school officer.** (1) Upon the order of the board of trustees, a school officer may destroy records that have met the retention period, as contained in the local government records retention and disposition schedules, and, with written approval of the local government records destruction subcommittee provided for in 2-6-1202, any records not referenced in the retention and disposition schedule that are no longer needed by the office.
- (2) Each student's permanent file, as defined by the board of public education, must be permanently kept in a secure location. Other student records must be maintained and destroyed as provided in subsection (1). Personnel files must be kept for 10 years after termination.



# Custodian of Records

## ■ Minutes of Board/Committee Meetings

### ■ Open Meeting Minutes

- (a) the date, time, and place of the meeting;
- (b) a list of the individual members of the public body, agency, or organization who were in attendance;
- (c) the substance of all matters proposed, discussed, or decided; and
- (d) at the request of any member, a record of votes by individual members for any votes taken (MCA Sec. 2-3-212).

### ■ Closed Meeting Minutes

### ■ Electronic Recording of Minutes



# Contact Information

Debra Silk

406-442-2180

[dsilk@mtsba.org](mailto:dsilk@mtsba.org)

# Thank you!