



2023 New Principals Workshop

Office of General Counsel Presentation

By: Patrick Burke, Attorney

Office of the General Counsel Contact Information:

Phone: (301) 853-4495

Email: legaladmin@adw.org



Overview: Office of General Counsel (OGC)

- Our office provides legal advice and counsel to the Archdiocese of Washington (ADW).
- We work with ADW departments, parishes, schools and ministries to assure legal compliance, reduce risk, and resolve legal issues as they arise.



Overview: OGC

Chris Anzidei
General Counsel

Public Policy Staff

- Andy Rivas
Manager of Catholic Policy & Advocacy, D.C. Catholic Conference
- Mark Rothe
Legal & Catholic Policy Analyst

General Counsel Staff

- Mary Rhodes
Senior Counsel
- Brendan Egan
Attorney
- Patrick Burke
Attorney
- Kristina Celeste
Legal Assistant



Overview: OGC

- A school's main point of contact at ADW is CSO; however, OGC works with CSO to assist schools with legal matters.
- Schools should contact OGC about any potential school-related legal or contractual issues. This includes contact by an attorney or investigator, a subpoenas, or any other legal matter.



Structure of ADW

Archdiocese - ADW is a corporation with one member—the Archbishop. On his resignation/death, his successor becomes the corporation's sole member.

Parishes - ADW parishes are separate independent religious non-profit corporations. The pastor, along with the Archbishop, the Vicar General and the Chancellor are the members.

Schools - ADW schools are apart of their respective parish corporation with the same members as the parish.



School Operations Manual Topics

The below topics in the *School Operations Manual* often give rise to legal/insurance issues:

- Suspensions/expulsions (§ 14)
- Student threats (§ 18)
- Unacceptable parent behavior (§ 27)
- Transportation of students (§ 11)

- Field trips (§ 12)
- Requests for student records (§ 22 & § 23)
- Subpoenas & custody issues (§ 9 & § 21)
- Immunization Records (§ 5)



Subpoenas

Subpoena: a **court order** requiring a person to testify or produce documents in a court proceeding.

- Subpoenas are mandatory – noncompliance can lead to penalties (even jail time).
- Schools often subpoenaed by attorneys representing parents in custody disputes.
- OGC works with subpoenaing attorneys to keep faculty from having to testify in court by promptly providing requested documents.



Subpoenas & Attorney Communications

Contact OGC immediately if anyone in the school

- (1) Receives a subpoena; or
- (2) Is contacted by an attorney or other person about a legal matter.

- **Avoid voluntarily communicating with an attorney—refer all attorneys to OGC.**
 - This prohibition applies to attorneys representing the student, “educational consultants,” & any other attorney/non-attorney requesting to speak about a legal matter.
- **Avoid voluntarily agreeing to testify.**
- **Avoid voluntarily offering opinions about parents.**
- **Avoid taking sides in legal disputes involving students/families.**



Legal/Custody Disputes

If approached by a parent regarding a legal custody dispute, respectfully relay the following message:

- » The school aims to be a neutral, positive learning environment for the child;
- » The school cannot take sides in custody disputes;
- » The school will bill the parent for costs incurred by the school in complying;
- » It is best not to involve the school in custody disputes.



Custody Arrangements

Families with custody arrangements **must** provide a current court order describing each parent's rights and responsibilities.

- Schools must follow custody orders.
- Call OGC with any questions.

Note re. student records: Regardless of custody arrangements, both parents may request student records unless the court order specifically states otherwise or one parent is sole legal and physical custody.



Immunizations

Immunization is generally required for admission.

- Only two exceptions:
 - 1) Student medical contraindications.
 - 2) In rare instances, a serious moral objection. In such event:
 - Notify your pastor.
 - Consult the *School Operations Manual* (Section 5).



Immunization Records

- Parents must sign
 - ADW immunization forms (for each child).
 - *ADW Immunization Policy Acknowledgement.*
- Keep signed forms on file with the student's immunization records.



Other Legal/Risk Management Issues Affecting Schools

- Contracts
- Grants/Outside Funding
- Facilities Usage
- Facilities Testing
- Insurance
- Employment



ADW Contract Review Policies & Procedures

These *Policies* address

- 1) Contracts with outside vendors;
- 2) Use of school facilities.

➤ Available on the parishes-only section of the ADW website.

The parish-only section of the website also has

- Contract review forms;
- Required addenda for contracts.



Common Types of Parish/School Contracts

- School Vendors (school lunches, uniforms, DJs, bus companies, etc.)
- Custodial Services; Trash Removal
- Copier Lease and Maintenance
- Maintenance & Repair (HVAC, plumbing, etc.)
- IT Services
- Construction (roofing, paving, renovations, etc.)
- Landscaping
- Parish/School Accounting
- Fundraising Consultants
- Utility Upgrades (LED, solar, etc.) ****Please call RE/FMO or OGC for help****



Contracts for \$25,000 or More

Contracts for \$25k/more: Must be approved by

- 1) The pastor; and
- 2) ADW.

Procedure: Submit the proposed contract to ADW with required forms.

E.g.:

- a completed *Request for Contract Review*;
- a completed Form B (*Petition for Canonical Permission*);
- and the applicable ADW Contract Addendum signed by the vendor.



Contracts under \$25,000

Contracts under \$25k:

- Must have pastor approval.
- Do not need to be submitted for ADW review.

➤ OGC is happy to review these contracts upon request.



Grants & Outside Funding

- Grants and other funding programs often come with
 - Hidden strings attached
 - Unknown pitfalls
 - Potential Catholic identity concerns
- Do NOT apply for or accept grants or other funding without first contacting CSO's Director for Govt. Programs & Grants: (Brian Radziwill: radziwillb@adw.org).



Facilities Usage Policies

Contract Review Policies also address use of parish & school facilities (e.g., by parishioners, non-parishioners, & vendors).

Protects the school in three main areas:

- 1) Legal liability & risk management;
- 2) Child protection & safe environment; and
- 3) Maintaining property tax exemption.

- School/parish-sponsored events: generally do not raise concerns.
- Use by *outside* individuals or entities: raises concerns and may not be permitted.
 - Contact OGC before approving any such school facilities usage.



Facilities: Testing Requirements

- All schools: must comply with periodic asbestos testing.
 - MD schools: must comply with State water/lead testing requirements.
- For more information on these tests/requirements, contact ADW's Facilities/Real Estate Management Office: (301) 853-4474.



Insurance – Catholic Mutual

- Catholic Mutual provides certain insurance coverage for school property and staff.
 - Contact OGC with any questions regarding coverage.
 - You may also reach Catholic Mutual directly: (703) 841-1214.



School Employment Issues

- ADW's Human Resources Office and CSO are your primary points of contact for school employment issues.
- OGC works closely with these departments on school employment matters.
- Occasionally, ADW retains outside employment counsel for support on specific school employment matters.



Human Resources/Employment

MD principals: must be familiar with pre-hire background check requirements for employees.

These are in addition to ADW requirements.

- Maryland law has specific documentation & other requirements, including background checks that must be sent to prior employers, related to whether an applicant has ever been accused “sexual abuse” or “sexual misconduct.”

CSO has additional resources on this subject and additional information may be found on MSDE’s website:

<http://marylandpublicschools.org/about/Pages/DEE/index.aspx>.



Questions?