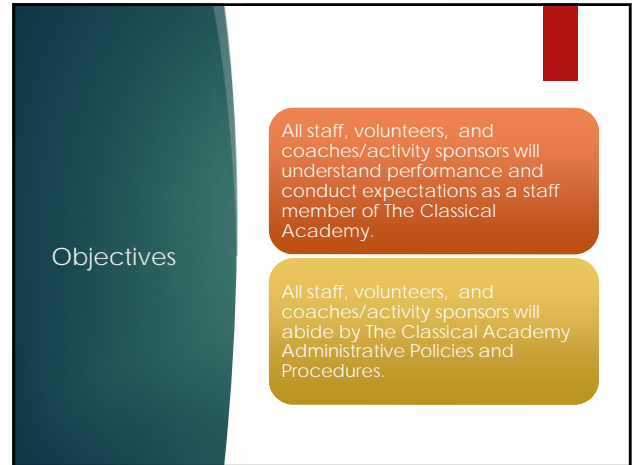


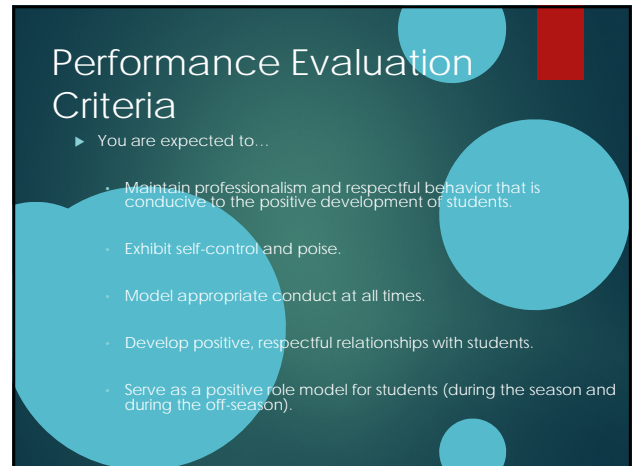
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6

Supervision Negligence & Liability of School Personnel

- ▶ Staff, volunteers, and coaches/activity sponsors have a duty of care for students while under the jurisdiction of TCA.
- ▶ Failure to exercise "due care" or failure to act as a reasonably prudent person would act under the same or similar circumstances may result in liability.
- ▶ The doctrine of *in loco parentis* (in place of a parent) applies to the care and supervision of students.
- ▶ Staff, volunteers, and coaches/activity sponsors must act in a manner to avoid injury and undue risk and should not leave students unsupervised.

7

Supervision Negligence & Liability of School Personnel

- ▶ School staff members have a duty of care for students while under the jurisdiction of TCA.
- ▶ Failure to exercise "due care" or failure to act as a reasonably prudent person would act under the same or similar circumstances may result in liability.

8

Supervision Negligence & Liability of School Personnel

▶ Four Elements of Negligence:

- Duty to protect students
- Failure to exercise an appropriate standard of care (breach of duty)
- Causation—causal link between the act or failure to act. Could the staff member have prevented the injury from occurring?
- Damages, such as injury to the student or to his or her reputation.

9

Supervision Negligence & Liability of School Personnel

Who may be liable for student injury?

- The staff member whose negligence caused the injury.
- The administrator, if he/she could have prevented the injury.
- The school district for whom the staff member is an agent.

10

Supervision Negligence & Liability of School Personnel

- ▶ The doctrine of *in loco parentis* (in place of a parent) applies to the care and supervision of students.
- ▶ Staff members must act in a manner to avoid injury and undue risk.

11

Supervision Negligence & Liability of School Personnel

Courts have generally held that staff members owe three basic duties to their students.

1. Adequate supervision
2. Proper instruction (e.g. students must be taught proper use of chemicals, how to play games, how to use equipment, etc.)
3. Maintenance of all equipment in reasonable repair

12

Supervision Negligence & Liability of School Personnel

- ▶ Staff members must adhere to legally binding documents such as *Individualized Health Plans*, *504 Plans*, *Individualized Education Programs (IEPs)*, *Behavior Plans*, and other *Learner Plans*.
- ▶ Accommodations, modifications, and supervisory responsibilities must be specifically met.
- ▶ Not completing a student's learning or health plan may be considered disability discrimination.

13

Confidentiality and FERPA

- ▶ The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student education records. The law applies to all schools that receive federal funding.

14

FERPA Rights

- ▶ • To inspect and review student's education records
- ▶ • To request amendment of inaccurate/misleading records
- ▶ • To prevent disclosure of information without consent
- ▶ • School administration has "reasonable time" to respond (not more than 45 days)
- ▶ The TCA Registrar Office processes all school records requests.

15

Confidentiality

- ▶ FERPA permits TCA to release student educational records only with written consent from parent/guardian OR "eligible student", with some limited exceptions. An "eligible student" is one who is eighteen years old or who attends a postsecondary institution.

16

FERPA

- ▶ Prohibits the improper disclosure of personally identifiable information derived from "education records."
- ▶ "Education records" are those that contain information directly related to a student and which are maintained by the educational institution.

17

You are important gatekeepers of information

- ▶ All education data holders must act responsibly and be held accountable for safeguarding students' personally identifiable information.
- ▶ As more education records are shared electronically, this becomes more challenging.
- ▶ All staff must assure that student records are confidential.

18

FERPA

19

- ▶ Directory information may be released without written consent from parent/guardian
- ▶ What is "directory information?"
- ▶ Information in a record that would not be generally considered harmful or an invasion of privacy if disclosed:
- ▶ student's name, photograph, gender, grade level, participation in officially recognized sports and activities, height and weight of athletic team members, dates of attendance, degrees, awards, honors and other distinctions received

19

FERPA

20

- ▶ Addresses and telephone numbers of students shall not be disclosed without the express written permission of the parent/guardian.

20

FERPA

21

- ▶ It is legal to share information:
 - ▶ • with teachers or staff who have a legitimate educational interest
 - ▶ • to officials of another school system where the student seeks to enroll
 - ▶ • in connection with applications for financial aid
 - ▶ • in a health or safety emergency

21

FERPA

22

- ▶ TCA Registrar Office handles all records requests.
- ▶ Records requests includes attendance, behavior, and historic grades.
- ▶ All legal documents, including custody documents, law office records requests, guardian ad litem, etc. should go to the Registrar's office.

DOE Learning Resources

22

FERPA

23

Custodial and Non-Custodial Parent Rights and Responsibilities

Unless informed through the submission of a court order, the school assumes there are no restrictions regarding a non-custodial parent's rights to:

- ▶ • be kept informed of the student's school progress and activities
- ▶ • access all of the student's educational records
- ▶ • participate in teacher conferences

23

Child Abuse Reporting

- ▶ Child Abuse Reporting (CO Law & Policy JLF)
 - ▶ Any staff, volunteers, and coaches/activity sponsors who have reasonable cause to know or suspect that a student has been subjected to abuse, neglect, or self-harm shall immediately report to DHS (444-5700) or law enforcement (CSPD 444-7000) and inform administration.
 - ▶ If a third party gives you information that makes you suspect abuse, neglect, or self-harm, you are required to report.
 - ▶ Under no circumstances should you contact the student's family regarding a disclosure that a student may be the victim of abuse or neglect.

24

Child Abuse Reporting

25

- ▶ You are a mandated reporter
- ▶ All public school officials and employees have a legal obligation to report suspected child abuse or neglect [C.R.S. § 19-3-304 (2) (I)]
- ▶ Administrators can assist staff members with clarifying what agency needs to be informed and filling out the proper paperwork.

25

Child Abuse Reporting

26

- ▶ Immunity
 - ▶ • The person who reports "in good faith" is immune from civil and criminal liability.
 - ▶ • The person who fails to report may be liable.

26

Student Safety

- ▶ Avoid situations in which you are alone with a student.
- ▶ No "friending" on social media; text messages for school business only (Policy ASD20 GBEE). Maintain social distance from students outside of school.
- ▶ It is strongly advised that staff, volunteers, and coaches/activity sponsors not transport students in a private vehicle. Per Policy IJOA-R-TCA, the Director of Academic Services must approve the use privately owned vehicles for student transport.
- ▶ Secondary personnel should never organize students driving other students.

27

Student Safety

- ▶ Always err on the side of safety with students. If you think a student's safety might be at risk, report it to an administrator immediately.
- ▶ Maintain professional boundaries between yourself and students as well as parents.
- ▶ Maintain professional boundaries when talking about your personal life with students.
- ▶ Avoid spending excessive time with any one student.

28

Student Safety

- ▶ Regular safety protocols are the basic protocols upon which administrators rely upon as they deal with serious situations with students. So please ensure that all safety protocols are followed, including keeping outside doors closed or locking classrooms when not in use. For Secondary this includes not letting students out of class early and minimizing students in the hallway during class.
- ▶ Immediately report any concerns regarding the safety and welfare of a student to the principal, athletic director, or another school/TCA administrator.

29

Student Safety

30

- ▶ Electronic Communications
 - ▶ Consider everything you put on a TCA/district computer or TCA/district email a public record.
 - ▶ In order to receive a TCA computer and a district email address, you agree to the district acceptable use policy.

30

Bullying Prevention

31

- ▶ "Bullying" means any written or verbal expression or physical or electronic act or gesture, or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student.
- ▶ Students who bully others or retaliate against someone who reports in good faith an incident of bullying are subject to discipline.

31

Search of Personal Items

32

- Only an administrator may search a student's backpack, locker, desk, pockets, purse, or personal items. If there is a situation where a staff member believes a student's effects should be searched, contact an administrator.
- An administrator must have the proper witness present.
- No staff member, including administrators, may ever search a student's phone.

32

Videoring Students

33

Students should not be videoed by staff members without prior approval of an administrator. There are certain procedures and protocols that must be followed, including parent permission.

33

"Deliberate Indifference"

- ▶ Remember, a school and/or its staff members can be held liable for damages if they fail to respond to known acts of harassment or abuse.
- ▶ The authority to exercise control over students comes with a duty to ensure their safety.
- ▶ It is not okay to fail to respond to a student's concern or complaint of mistreatment.

34

"Deliberate Indifference"

- ▶ If a staff member, volunteer, and/or coach/activity sponsor has knowledge or suspects that a student may be exposed to an unreasonable risk of abuse or injury, it is mandatory that the staff member, volunteer, and/or coach/activity sponsor report such information to a school administrator immediately.
- ▶ Withholding information that may be harmful to the safety and welfare of a student is not acceptable.
- ▶ Failure to protect a student from harm is a violation of TCA policy.

35

"Deliberate Indifference"

- ▶ Staff, volunteers, and coaches/activity sponsors engaging in conduct in violation of Supervision, Negligence & Liability policies may be subject to disciplinary action up to and including dismissal.

36

Alcohol/Drug-Free Workplace

- ▶ The Classical Academy is committed to an alcohol/drug-free learning and working environment.
- ▶ All staff, volunteers, and coaches/activity sponsors are prohibited from being under the influence, possessing, and/or distributing alcohol or drugs in the workplace and/or at TCA-sponsored activities.
- ▶ Staff, volunteers, and coaches/activity sponsors engaging in conduct in violation of TCA alcohol/drug-free workplace policy may be subject to disciplinary action, up to and including dismissal.

37

Alcohol/Drug-Free Workplace

Staff members shall not report for duty, remain on duty during work time, be on TCA/district premises, be at other work sites where staff members may be assigned, or be on duty at a TCA/district-sponsored activity while under the influence of or in possession of alcohol or a controlled substance.

A staff member is considered to be "on duty" for the purpose of controlled substance and alcohol purposes at all times from the time when the staff member begins working or is required to be ready for work through the time the staff member is relieved from all responsibility for work and until the staff member has left TCA/district property or the TCA/district activity.

38

Alcohol/Drug-Free Workplace

- ▶ The unlawful manufacture, distribution, dispensing, possession, sale, or use of alcohol or a controlled substance is prohibited.
- ▶ The use of alcohol or controlled substances is prohibited on the premises or as part of any school activity of TCA/ Academy District 20.

39

Alcohol/Drug-Free Workplace

- ▶ Does the prohibition apply to non-work hours?
 - ▶ Yes, to the extent such use impairs a staff member's ability to perform his/her job in a safe and effective manner and without endangering the health or safety of students, parents, or other staff members.

40

Alcohol/Drug-Free Workplace

- ▶ Other Considerations...
 - Pursuant to law, any staff member who is convicted or pleads nolo contendere under any criminal drug or alcohol statute for a violation occurring in the workplace shall notify the President or designee (HR) no later than five days after the conviction or entry of the plea.

41

Alcohol/Drug-Free Workplace

- ▶ Assistance
 - Difficulty performing on the job can sometimes be caused by addiction to alcohol and other drugs.
 - Help is available.
 - EAP can support staff members if they have a problem with alcohol or other drugs.
 - EAP can also support staff members if someone in his/her family has a problem.
 - Consultations with EAP are confidential.

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Alcohol/Drug-Free Workplace

- ▶ What is Employee Assistance Program (EAP) and how do I reach them?
 - Profile EAP is TCA's provider for mental health and substance abuse issues.
 - All staff members are eligible for 5 free visits, per person, per issue, per year.
 - 719-634-1825

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Tobacco Free Workplace

44

- ▶ Smoking (including vape or e-cigarettes), chewing, or any other use of any tobacco product by staff, students and members of the public is prohibited on all school property.
- ▶ Possession of any tobacco product by students is also prohibited on school property.

44

Non-Discrimination Equal Opportunity

- ▶ The Classical Academy is committed to a learning and working environment free of discrimination and harassment (Policy AC-TCA).
- ▶ All staff, volunteers, and coaches/activity sponsors are expected to conduct themselves in a professional manner and to refrain from discriminatory or harassing behavior toward students or adults.
- ▶ Staff, volunteers, and coaches/activity sponsors engaging in conduct in violation of TCA non-discrimination and harassment policies may be subject to disciplinary action, up to and including dismissal.

45

Non-Discrimination Equal Opportunity

Discrimination (in terms of staff) is defined as a supervisor or person in authority making employment decisions related to hiring, firing, transferring, promoting, demoting, benefits, compensation, and other terms and conditions of employment, because of a staff member's protected class status.

Discrimination (in terms of both staff and students) is physical, verbal or electronic conduct resulting in negative treatment based on protected class.

The nondiscrimination policy pertains to staff, students, and third parties.

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Non-Discrimination Equal Opportunity

- ▶ Protected class status:
 - Race
 - Color
 - Gender
 - Sexual Orientation
 - Religion
 - National Origin
 - Age
 - Marital Status
 - Disability
 - Pregnancy
 - Or any other legally protected class

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Non-Discrimination Equal Opportunity

Discrimination is more serious if it is directed at an individual, occurs in a classroom, happens in front of others, is repeated after being asked to stop, or is done by a person in authority.

Harassment is a form of discrimination, usually when actions or activities are repeated. It is more serious.

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Non-Discrimination Equal Opportunity

- ▶ Areas of Caution for Educators:
 - ▶ Be careful not to single a student out in front of peers based solely on his or her race, gender, religion, disability, sexual orientation, or other protected class.
 - ▶ Be careful not to have role playing exercises that might cause students to focus on another person's protected class.

49

Non-Discrimination Equal Opportunity

- ▶ Any staff member believing they have been subjected to discrimination should report that behavior to their immediate supervisor, another member of the administration, the Human Resources Department, or the TCA Compliance Officer.
- ▶ All complaints can be handled informally or formally, except sexual harassment. Sexual harassment must be address formally per federal legislation.

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Sexual Discrimination & Harassment

- ▶ The Classical Academy is committed to a learning and working environment free of sexual discrimination and harassment.
- ▶ All staff, volunteers, and coaches/activity sponsors are expected to conduct themselves in a professional manner and to refrain from sexual discrimination or harassment of students or adults.
- ▶ TCA does not discriminate related to sex (gender), sexual orientation, or marital status.
- ▶ Staff, volunteers, and coaches/activity sponsors engaging in conduct in violation of TCA sexual harassment policies may be subject to disciplinary action, up to and including dismissal.

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Sexual Discrimination

- ▶ Sexual discrimination is unwelcomed sexual advances and/or requests for sexual favors or other verbal or physical conduct of a sexual nature when:
 - Submission to or rejection of such conduct affects a person's employment, advancement, or educational development.
 - Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or of creating a severe and pervasive intimidating, hostile, or offensive working or educational environment.

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Sexual Discrimination

- ▶ Sexual discrimination and/or gender discrimination.
- ▶ A behavioral definition...
 - Deliberate
 - May be repeated
 - Not asked for or not welcomed
 - May involve an imbalance of power
- ▶ Forms of Sexual Discrimination: Verbal, Non-Verbal, Physical

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Sexual Discrimination

- ▶ Verbal (not all inclusive)
 - Sharing about sex life
 - Asking about sex life
 - Comments about body
 - Sexually-oriented "kidding" or jokes
 - Suggesting or demanding sexual involvement
 - Negative or offensive comments about another staff member's gender
 - Obscene or lewd comments

54

Sexual Discrimination

- ▶ Non-Verbal (not all inclusive)
 - Drawings
 - Gestures
 - Cartoons
 - Posters
 - Letters
 - E-mail
 - Text messages (sexting)
 - Other social media

55

Sexual Discrimination

- ▶ Physical (not all inclusive)
 - Touching
 - Patting
 - Pinching
 - Hitting
 - Brushing up against
 - Fondling

56

Sexual Discrimination

- ▶ Who may be a victim of sexual harassment?
 - The victim as well as the harasser may be a female or a male.
 - The victim may not be of the opposite sex.
 - The victim may not be the person harassed but could be anyone affected by the offensive conduct.

57

Sexual Harassment

- ▶ "Sexual Harassment" means conduct on the basis of sex that satisfies one or more of the following:
 - A school staff member conditioning education benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
 - Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
 - Sexual assault, dating violence, domestic violence, or stalking.

58

Sexual Discrimination & Harassment

Reporting

- A staff member should report complaints of alleged sexual harassment to his/her immediate supervisor.
- If the staff member believes that the immediate supervisor is the source of the discrimination or harassment, he or she should report to the Director of Human Resources or Compliance Officer.

59

Sexual Discrimination & Harassment

- ▶ Staff, volunteers, and coaches/activity sponsors engaging in conduct in violation of TCA sexual discrimination and harassment policies may be subject to disciplinary action, up to and including dismissal.

60

Assurances for All TCA Staff, Parents & Students

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- ▶ TCA will ensure adequate, reliable, and impartial investigations of complaints.
- ▶ TCA will take interim measures during the investigation to ensure the safety of the reporting party and to prevent retaliation against the reporting party, identified party, and/or identified witnesses.

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Assurances for All TCA Staff, Parents & Students

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- ▶ Appeals will be conducted in a fair and equitable manner per school policy
- ▶ TCA shall conduct an investigation, including prompt and immediate corrective action, and monitoring of the remediation efforts.

62

Retaliation

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School policies protect any student or staff member who reports bullying, discrimination, or harassment in good faith. Retaliation is not permitted.

Retaliation includes verbal comments, differential treatment, or physical acts against someone who reported inappropriate activity in good faith.

63

Retaliation

64

- ▶ Staff, volunteers, and coaches/activity sponsors engaging in conduct in violation of sexual harassment policies may be subject to disciplinary action, up to and including dismissal.
- ▶ Retaliating against staff members who file complaints, participate in investigations, or report observing discrimination, sexual harassment or sexual harassment is prohibited.

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Questions and Answers

Staff members are responsible for becoming familiar with all TCA/D20 policies and procedures, whether presented in this format or not.

If you have any questions regarding the content of this training material, or any policy/procedure, then please contact your immediate supervisor, principal, assistant principal, or the athletic director for clarification.

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Mandatory Training Slides

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- ▶ Online Training Modules sent by HR Thursday, August 11
- ▶ Individual link to you, which tracks your completion; do not forward to others
- ▶ Conflict Resolution, Conflicts of Interest, Nine Elements of Safety, Safe2Tell, Physical Restraint, and Technology Agreements.
- ▶ Complete by August 31st.

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