

# Chalkboard



An Education Newsletter from the Attorneys of Rosenstein, Fist & Ringold

2019 Issue 3

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## Use Caution in Using the Preloaded IEP Goals in EdPlan

*by Cheryl A. Dixon*

The Oklahoma State Department of Education ("OSDE") has provided a drop down menu of Individualized Education Plan ("IEP") goals in EdPlan. In my work with various school districts I have been told repeatedly by staff that it was their understanding that the goals provided in EdPlan were required to be used in drafting student IEPs. This is not true. Although those goals may be helpful in considering appropriate goals for a student, they should not be solely relied on and/or over utilized for your students with an IEP.

The goals stated in an IEP provide direction for implementing the IEP and determining the student's progress. Measureable annual goals provide the basis for instruction, describing what a child needs related to how his or her disability affects the

child's education. Goals should focus on reducing the needs described in the student's present levels of performance which interfere with each student's learning or educational performance. Goals should be "SMART" – meaning they must be Specific, Measurable, use Action words, Realistic and Relevant, and Time -limited.

An annual goal is meaningful when the expectation is reasonable, the skill or knowledge the goal represents is necessary for success in school, and the IEP team believes the accomplishment of the goal is important. A goal is measurable when it reflects a skill or behavior that can be observed and recorded in some manner. A goal should describe what a student can be reasonably expected to accomplish within a year. Each goal should align with the

Oklahoma Academic Standards for the grade in which the student is enrolled.

In the event the EdPlan goals are used, IEP teams must consider each student's individual needs and modify the goal appropriately and/or draft objectives specific to the student. Simply utilizing the preloaded goals in EdPlan could result in the goals not being individualized and/or appropriate to a specific student.

When writing measurable goals, IEP teams should consider:

- What does the student need to learn or do academically?
- What does he or she need to learn or do functionally?
- A goal should be written for what the team expects the student to achieve within a year, so that the same goal is not repeated year to year. It must be attainable, but ambitious.
- A student's failure to make measurable progress towards goals, and the team's repeating IEP goals that the student has still not mastered, can be evidence that the district's IEP is flawed.
- Goals should be expressed in objective terms so that the team can make an analysis of whether the child was making progress.
- An IEP goal is appropriate if a person unfamiliar with the IEP would be able to implement the goal, implement the assessment of the student's progress, and determine the student's progress was satisfactory.

To summarize, do not simply choose the same or similar goals for all your IEP students in specific areas of need. Each student's individualized needs must be considered and goals drafted specifically for that student. If your school district has any questions or concerns about this issue, or any special education issue, please contact your district's attorney.

## School Policy for Bed Bugs Found at School

*by N. Roxane Mock*

School districts should develop and maintain a policy for handling bed bugs found on a school district's property or furnishings as well as on a student or a student's belongings while at school. Historically, school districts have prohibited students afflicted with bed bugs from attending school until a health officer has determined that the individual is free of bed bugs or that there is no danger of the bed bugs spreading to others in the school environment. However, based on new research regarding bedbugs, organizations such as the Center for Disease Control, the Environmental Protection Agency, and the National Association for School Nurses have revised their position and now recommend that students afflicted with bed bugs should not be prohibited from attending school.

This new research indicates that actual bed bug infestations in schools are rare. More commonly, a few bed bugs "hitchhike" to

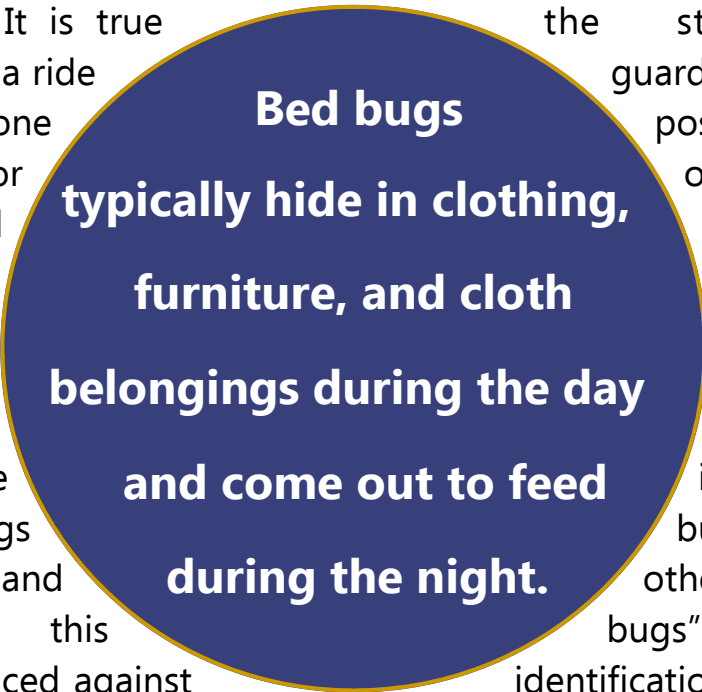
school from an infested home or business by hiding in a student's clothing or backpack. Bed bugs do not live on a person. They typically hide in clothing, furniture, and cloth belongings during the day and come out to feed during the night. It is true that bed bugs that hitch a ride into a school in one student's backpack or clothing could be carried home by another student. This potential for the spread of bed bugs is not a minor concern, as the elimination of bed bugs can be difficult and expensive. However, this concern should be balanced against the importance of students regularly attending school.

If a bed bug is found on a student or a student's belongings, it may indicate that the student's home has bed bugs. However, bed bugs can crawl onto or off of a person, or their belongings, at any time. Bed bugs are often associated with a stigma for a lack of cleanliness or a lower socioeconomic status. As stated earlier, anyone can bring in bed bugs to a school because bed bugs can crawl onto or off a person and onto another person. Due to the stigma and the potential for spread, school districts should create a policy setting out a procedure when bed bugs are found on a student or a student's belongings.

If a suspected bed bug is found on a student or a student's belongings, do not send the

student home. Discretely remove the student from the classroom or area so that the school nurse, or other school designated individual, can examine the student's clothing or belongings. Notify the student's parent(s)/guardian(s) by phone, if possible, of the possibility of bed bugs being found on their child. Any bed bugs that are found should be removed and collected for identification as bed bugs can resemble other insects. Many "bed bugs" that are submitted for identification are not, in fact, bed bugs.

School districts should develop policies and procedures for handling the following situations: (1) bed bugs being found on a student or the student's belongings; (2) notifying the student's parent(s) or guardian(s) of the possibility of bed bugs being found on their child or his/her belongings; (3) bed bugs being found on the school district's property or furnishings; (4) care of students with a known infestation at home; and, (5) notifying all student parent(s)/guardian(s) of bed bugs being found at school. *If you have any questions about implementing a school district bed bug policy for procedures to respond to the above-mentioned situations, please contact your school district's attorney.*



# Confidentiality of School Employee Records/Information

by Staci L. Roberds

As a public body under the Oklahoma Open Records Act, a school district may be required to disclose certain employee records/information maintained by the district in an employee's personnel file or otherwise. In order to handle such requests in a consistent and lawful fashion, a school district should consider implementing a general policy regarding the confidentiality of employee records/information pursuant to the provisions of the Open Records Act.

The Open Records Act specifically addresses the confidentiality of employee records/information in OKLA. STAT. tit. 51, § 24A.7. With regard to certain employee information, a school district has discretion with regard to disclosure. For example, a school district is not required to disclose confidential information from employee records if it relates to internal personnel investigations, which includes records of examination and selection material for hiring school district employees or materials which pertain to the appointment, promotion, demotion, discipline, or resignation of a school district employee. A school district also

has discretion to keep information in employee records confidential when the disclosure of such records would constitute "a clearly unwarranted" invasion of the employee's privacy. Examples of such disclosures of information that constitute "a clearly unwarranted" invasion of privacy include the disclosure of employee evaluations, payroll deductions, applications from applicants who were not hired by the school district, and the transcripts of certified school district employees. However, if requested, a school district is required to disclose the degree and the curriculum obtained from the transcripts of certified school employees.

If employee records do not fall into one of the categories specified above, the records are subject to disclosure, including information regarding dates of employment, title and position, and any final disciplinary action if it results in a loss of pay, suspension, demotion, or termination of the employee.

The Open Records Act mandates that certain other employee information remain confidential and not be disclosed by the school district. A school district must keep confidential all social security numbers, home addresses, and telephone numbers of any current or former employee. Moreover, in the context

**The Open Records Act mandates that certain other employee information remain confidential and not be disclosed by the district.**

School District  
Transparency Act:  
Transparency Requirement for the  
2019-2020 School Year

*by Haley A. Drusen*

of employee records created under the Oklahoma Teacher and Leader Effectiveness Evaluation System ("TLE"), such records which identify in any way a current or former school district employee shall not be subject to disclosure. This limitation on disclosure includes evaluations, observations, or other TLE records of an employee. However, the Oklahoma School Code allows for the disclosure of teacher evaluation records under certain circumstances. Teacher evaluations and responses thereto may be disclosed to the evaluated person, the board of education, the administrative staff making the evaluation, the board of education and administrative staff of any school district to which a teacher applies for employment, any other person as specified by the employee in writing, and at any hearing involving a teacher or administrator's dismissal or nonrenewal from employment.

Even if a school district has adopted a policy regarding the confidentiality of employee records/information, determining what employee information may or may not be deemed confidential under the Oklahoma Open Records Act can sometimes be a difficult task. If a school district receives a request for records that involves the disclosure of employee information, it should ask its attorney for guidance in determining the confidential nature of the records requested and how the school district should proceed with responding to the request.

With Spring Break passed and this school year rapidly coming to a close, School Districts should be looking forward to preparing for next year. Part of this preparation includes reviewing district policies and practices to ensure that they are in compliance with the latest legal changes. Although we are waiting on the legislature to finalize this year's bills, last year's amendments to the School District Transparency Act, 70 O.S. § 5-135.4, place new requirements on schools beginning in the 2019-2020 school year.

House Bill 2860 (enacted in 2018), amended the School District Transparency Act in several ways. First, the bill expanded the data that must be included on the Oklahoma State Department of Education's website for "Oklahoma Cost Accounting System and School District Financial Information" ("OSDE's Financial Information Website"). New categories of data required now include (1) the total compensation package of the superintendent including base salary, insurance, retirement, and other fringe benefits including exempted non-administrative services (like teaching in a classroom, etc.) and (2) school site expenditure data (formerly only district expenditure data was required). Additionally, the amendments updated the

calculation for per-pupil expenditure data in the School District Transparency Act to match a 2017 legislative change. These amended data categories and calculations were effective in November 2018 and required little action from districts

Another change in House Bill 2860 targeted school district websites. Under this amendment, districts with websites must either (1) include on their homepage a link to OSDE's Financial Information Website or (2) to provide all of the data required by the School District Transparency Act within one click of the district's home page. The link must be established by the beginning of the 2019-2020 school year.

While this law does not require that districts create a website, those districts with websites should work with their

technology staff to ensure that they are meeting the requirements of this bill prior to the beginning of the 2019-2020 school year. Districts should note that the link must be located on the district's homepage; it is insufficient to place the link on a different webpage (for instance, within the financial department's webpage). Additionally, any districts that choose to satisfy the requirements of this bill by creating their own financial data webpage or online document should ensure that all data required by the School District Transparency Act is included.

*If you have questions regarding the School District Transparency Act, or other recent legislation, your RFR attorneys are here to help. RFR clients may subscribe to our weekly Legislative Advisory and Red Banner Alerts to help them keep advised on the most current legislative changes.*

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*Chalkboard* is designed to provide current and accurate information regarding current education law issues. *Chalkboard* is not intended to provide legal or other professional advice to its readers. If legal advice or assistance is required, the services of a competent attorney familiar with education law issues should be sought.

We welcome your comments, criticisms and suggestions. Correspondence should be directed to: Rosenstien, Fist & Ringold, 525 South Main, Seventh Floor, Tulsa, Oklahoma 74103-4508, or call (918) 585-9211 or 1-800-767-5291. Our FAX number is (918) 583-5617. Help us make *Chalkboard* an asset to you.

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