



## **Process for Including Legal with Policies or Issues Related to Generative AI**

### **Introduction**

To ensure that Norfolk Public Schools (NPS) adheres to all applicable laws, regulations, and best practices, it is crucial to involve the Legal Department in the development, review, and implementation of any policies or issues related to generative AI. This process outlines the steps for including legal oversight at all stages of policy development, implementation, and issue resolution.

### **Purpose**

The purpose of this process is to establish a clear and consistent method for incorporating legal expertise into the decision-making and policy formulation around generative AI. This will help NPS manage risks, maintain compliance with federal, state, and local regulations, and uphold ethical standards in the use of generative AI technologies.

### **Key Steps in the Process**

#### **1. Policy Development and Drafting**

- **Initial Drafting:** Any new policy or revision related to generative AI must be initiated by the relevant department (e.g., IT, Curriculum, Human Resources). A draft of the proposed policy should be created, outlining the purpose, scope, guidelines, and potential implications of generative AI use.
- **Legal Review Request:** The initial draft must be sent to the Legal Department for review. This ensures that the proposed policy aligns with applicable laws, including privacy regulations (e.g., FERPA, COPPA), intellectual property rights, and any other legal considerations.
- **Parental Consent Considerations:** Include a requirement to obtain explicit parental consent before students use any AI tools, in compliance with privacy regulations and ethical considerations.
- **Data Privacy Safeguards:** Implement strict guidelines prohibiting the input of personally identifiable information (PII) into AI systems to protect student privacy and adhere to regulations like FERPA.
- **Legal Feedback Integration:** The Legal Department will provide feedback, including recommendations for compliance, risk mitigation, and ethical considerations. The department responsible for drafting the policy will then revise it based on the legal input provided.

#### **2. Risk Assessment and Compliance Verification**

- **Legal Risk Assessment:** Before implementing any generative AI policy, the Legal Department will conduct a risk assessment to identify any potential legal issues, including data privacy concerns, intellectual property risks, and liability implications.

- **Compliance Checklist:** A compliance checklist will be created and reviewed by the Legal Department to ensure the policy meets all federal, state, and district requirements.
- **Vendor Agreements Review:** Establish a routine process for reviewing and understanding vendor agreements for AI tools to ensure alignment with NPS data protection policies and legal obligations.
- **Periodic Vendor Audits:** Conduct periodic audits of third-party AI vendors to ensure continued compliance with NPS policies, contractual obligations, and updated privacy laws.

### 3. Stakeholder Consultation

- **Cross-Departmental Review:** After the Legal Department's feedback is incorporated, the draft policy will be shared with other relevant departments (e.g., IT, Curriculum, Administration) to gather additional input and ensure that all stakeholders are informed and aligned.
- **Legal Oversight During Consultation:** Legal representatives should participate in key consultation meetings to address any legal concerns raised by stakeholders and provide further guidance on the implications of the policy.
- **Transparency Measures:** Outline transparency practices, such as how the use of generative AI tools is communicated to parents, students, and staff, including the purpose, benefits, and risks involved.

### 4. Final Review and Approval

- **Final Legal Review:** The revised draft must be sent to the Legal Department for a final review to confirm that all legal issues have been adequately addressed and that the policy complies with current laws and regulations.
- **School Board Approval:** Once approved by the Legal Department, the policy will be submitted to the School Board for final approval, if applicable.
- **Board-Level Reporting:** Incorporate a requirement for regular reports to the School Board on the status of AI policies, compliance issues, and incidents to maintain oversight and accountability.

### 5. Issue Resolution and Incident Management

- **Reporting Issues:** If an issue arises regarding the use of generative AI (e.g., data breach, inappropriate use, or compliance concerns), it must be reported to the Legal Department immediately.
- **Legal Guidance on Incident Management:** The Legal Department will provide guidance on managing the incident, including steps to mitigate harm, notifying affected parties, and fulfilling any reporting requirements.
- **Confidentiality Considerations:** Be cautious when using AI tools in contexts involving sensitive information, such as attorney-client privileged communications, to prevent unintended disclosures.
- **Incident Response Timeline:** Establish a timeline for responding to incidents, such as data breaches, to ensure quick action and compliance with legal reporting

obligations. This should include a specific timeframe for notifying affected parties and documenting all steps taken during the incident.

- **Documentation and Follow-Up:** All incidents and related legal guidance will be documented. The Legal Department will work with the relevant departments to update policies or procedures as needed to prevent future occurrences.

## **6. Training and Awareness**

- **Legal Training for Staff:** The Legal Department will provide training sessions for staff on the legal aspects of generative AI use, including data privacy, intellectual property, and ethical considerations. This training will help ensure that staff members understand the legal boundaries and responsibilities associated with using AI tools.
- **Student and Staff Training on AI Use:** Educate both staff and students on the ethical use of AI tools, emphasizing the importance of data privacy and the implications of AI-generated content.
- **Confidentiality Protocols:** Create specific guidelines to prevent the use of AI tools in situations involving sensitive information, such as attorney-client privileged communications, to avoid unintended disclosures.
- **Regular Policy Updates:** As laws and regulations around generative AI evolve, the Legal Department will work with other departments to ensure that policies are updated accordingly. All staff will be informed of updates and provided with necessary training.
- **Legal Sign-Off on Training Programs:** Ensure that the Legal Department provides formal sign-off on all training programs involving generative AI to ensure they include up-to-date legal requirements and considerations.

## **Regular Updates and Reviews**

- **Policy Review Cycle:** All policies related to generative AI will undergo an annual review. The Legal Department will be involved in these reviews to ensure continued compliance with evolving legal standards and regulatory requirements.
- **Emerging Legal Issues:** The Legal Department will keep abreast of new legal developments in the field of AI and ensure that NPS policies remain up-to-date with industry best practices and legal obligations.
- **Ongoing Vendor Agreement Evaluation:** Regularly evaluate vendor agreements to ensure that they continue to meet NPS's legal and data protection requirements.

## **Conclusion**

By following this structured process for including the Legal Department in generative AI policy development and issue resolution, Norfolk Public Schools can effectively manage legal risks, ensure compliance, and promote the ethical use of AI technologies. For any questions related to this process, please contact the Legal Department directly.