

10 Things  
~~Your Lawyer~~  
Wants You to Know:  
Ted Lasso Edition

*Jayne*



**2023 AASB LAW CLINIC**

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1. Clarity on APs/Administrators Earning Tenure
2. Contracts and Waiving Tenure
3. Proper Use of Supplements
4. Open Meetings Act & Discussing Finalists
5. Open Meetings Act & Negotiating Contracts
6. Employees Under Arrest
7. Students Under Arrest
8. Firearms and Mandatory Expulsions
9. Special Education & Discipline
10. Special Education & Interdistrict Enrollment

APS &  
ADMINS  
EARNING  
TENURE



ADMINS EARNING TENURE

They  
don't.



# ADMINS EARNING TENURE

- ❖ They do.
- ❖ Only earn “teacher” tenure.
- ❖ Example I
  - Teacher works 5 years
  - Promoted to AP
  - 2 years later, supt. wants to nonrenew back to classroom. Can he be nonrenewed?



# ADMINS EARNING TENURE

- ❖ They do.
- ❖ Only earn “teacher” tenure.
- ❖ Example
  - Teacher works 5 years
  - Promoted to AP for 2 years
  - 2 years later, supt. wants to nonrenew back to classroom. Can he be nonrenewed?

## ❖ NO!

- Already had tenure when he started as AP
- Can be transferred back to classroom
  - With a reduction in pay – full due process hearing
  - At same pay – board conference



# ADMINS EARNING TENURE

## ❖ Example 2

- Hire Deputy Superintendent
- Works 5 years
- Tenured as Deputy Superintendent?





# ADMINS EARNING TENURE

## ❖ Example 2

- Hire Deputy Superintendent
- Works 5 years
- Tenured as Deputy Superintendent?
  - **NO!**
- Tenured as a teacher!

## ❖ “Teacher”

- Anyone whose job requires them to hold an educator’s certificate



Classroom Instructor	Assistant Superintendent	Curriculum Coordinator
Librarian	Deputy Superintendent	Education Specialist
Counselor	Federal Programs Director	Reading Coach



CONTRACTS  
AND WAIVING  
TENURE



## CONTRACTS & WAIVING TENURE

- ❖ Can we offer high-ranking administrators contracts – without tenure – so incoming superintendents can easily choose their own team?



# CONTRACTS & WAIVING TENURE

❖ Can we offer high-ranking administrators contracts – without tenure – so incoming superintendents can easily choose their own team?

❖ No!

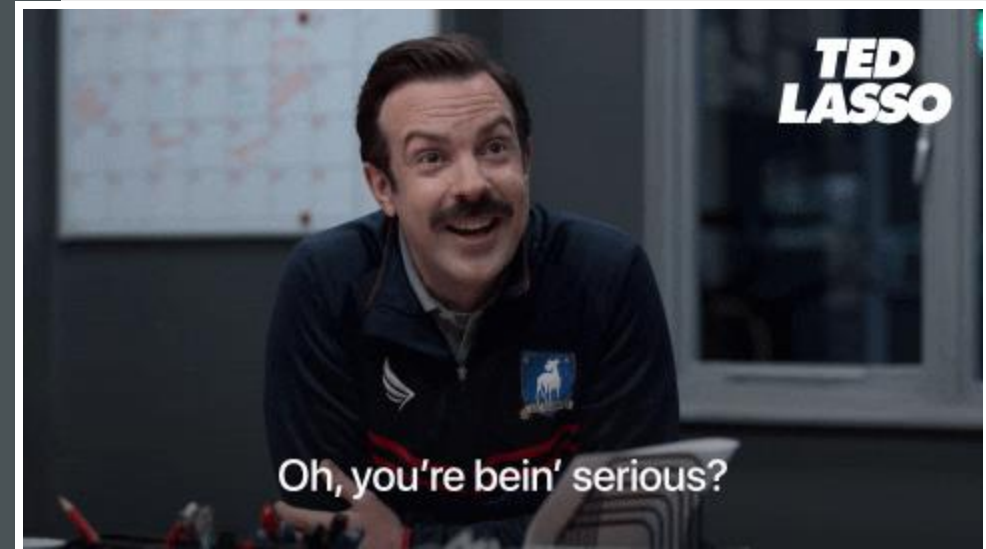
❖ Tenure is not waivable by using contracts

❖ Contract employees

Superintendents

CSFOs

Principals



PROPER USE OF  
SUPPLEMENTS



# PROPER USE OF SUPPLEMENTS

## ❖ Use for extra duties only

- Coaching
- Club sponsors
- After school activities

## ❖ Don't use for pay bumps for regular jobs

## ❖ Complicates issues of base pay for legislative pay raises

### • Example

- AP pay = teacher pay + \$5,000 supplement
- Legislative pay raise is 4% on base pay
- Which part do I get the 4% raise on?

### ❖ Teacher pay?

### ❖ The whole thing?

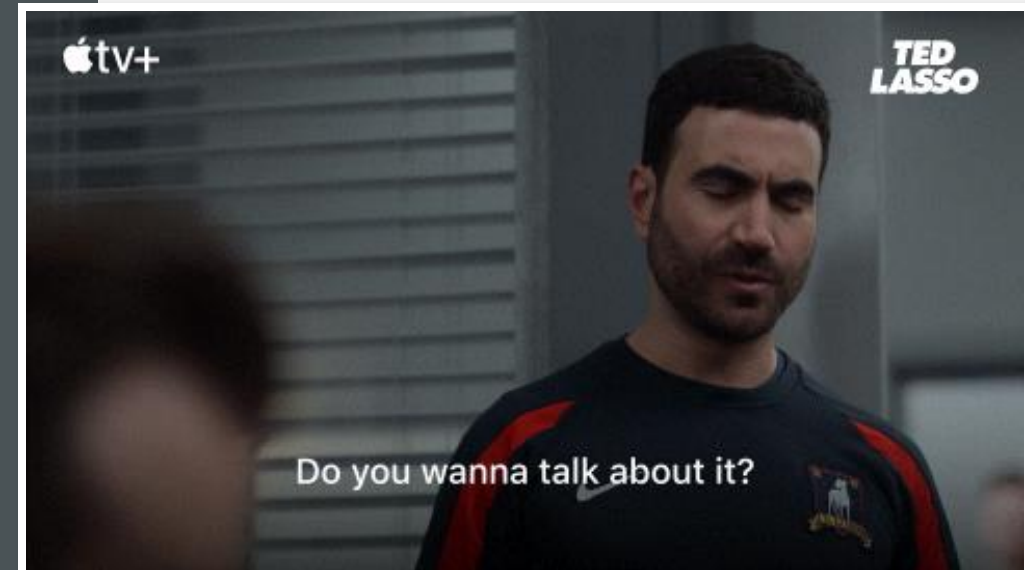


OPEN  
MEETINGS  
ACT &  
DISCUSSING  
FINALISTS



# OPEN MEETINGS ACT & DISCUSSING FINALISTS

- ❖ Appointed superintendents & CSFOs
- ❖ Can you go into executive session to discuss the candidates?





# OPEN MEETINGS ACT & DISCUSSING FINALISTS

- ❖ Appointed superintendents & CSFOs
- ❖ Can you go into executive session to discuss the candidates?
  - Mostly no.
  - Discussing candidates is not one of the 9 listed reasons to enter executive session
  - What about “good name and character”?



# OPEN MEETINGS ACT & DISCUSSING FINALISTS

## ❖ “Good name & character”

- General reputation and character (anyone)
- Mental or physical condition (anyone)
- Professional competence (anyone)
  - Ability to practice a profession within standards of care and responsibility
  - Profession must require state certification and at least 3 years of college

## × Job Performance (w/ exceptions) (employees only)

- must be public if employee files Statement of Economic Interests
  - Superintendent, supervisors, principals, administrators or any employee making over \$97,000/year



# OPEN MEETINGS ACT & DISCUSSING FINALISTS

## ❖ “Good name & character”

- Sounds like a blanket reason but it’s not
- Deliberations designed to be done in public

## ❖ Strategy

- Keep the public discussion positive
  - Examples
    - “I really liked Dr. Smith’s comments about data.”
    - “I thought Ms. Jones’s experience with turnaround schools was impressive.”
- If you need to enter executive session, follow the proper procedure



OPEN  
MEETINGS ACT  
&  
NEGOTIATING  
CONTRACTS



# OPEN MEETINGS ACT & NEGOTIATING CONTRACTS

- ❖ Superintendents & CSFOs
- ❖ Salaries/compensation must be discussed in public
  - past, current or prospective employees or officials
- ❖ Possible strategies
  - Board president/vice president
  - Board attorney
  - Work session (public)



EMPLOYEES  
UNDER  
ARREST



# EMPLOYEES UNDER ARREST

- ❖ Do we terminate? **It depends.**
- ❖ What do you do? **It depends.**
- ❖ What do we think? **It depends.**
- ❖ Employees have the right to make bad decisions in their private life...to a point.
  - DUI vs. Theft vs. Domestic Violence vs. Murder
- ❖ How do we know?





(SPECIFICALLY INCLUDE FACTS CONSTITUTING CAUSE FOR ARREST.)

On 02/01/2019 at approximately 2145 hours, the defendant and victim were engaged in a verbal argument. During the verbal argument, the defendant threw a frozen pork chop at the victim, striking him on his left eyebrow causing an approximate 1/4" laceration. The defendant then fled the scene. It was determined that based on the defendant's statements, and the victim's injuries that Jennifer Brassard was the primary aggressor. The victim and defendant have a domestic relationship, they have dated for the last year and live together. I placed Jennifer Brassard under arrest for domestic battery.

\* \* \* End \* \* \*

CHARGE	RELEASED TO (NAME)	RELATIONSHIP	DEPT AND RELEASED	S INCARCERATED (DATE) (Y/N)	DATE	TIME
	CHARGE DESCRIPTION <b>DOMESTIC BATTERY</b>	<input checked="" type="checkbox"/> F.S. <input type="checkbox"/> CIVIL <input type="checkbox"/> ORD	STATUTE VIOLATION NUMBER <b>784.03.1A1 DOM</b>	NOC# <b>1319</b>	COURT CASE # <b>2019/M000668AFS.1</b>	
COST RECOVERY	ACTIVITY N: NA P: POSSESS	S: SELL B: BUY T: TRAFFIC	R: SMUGGLE D: DELIVER E: USE	K: DISPENSE D: DISTRIBUTE	M: MANUFACTURE P: PRODUCE O: OBTAIN	Z: OTHER
	REQUEST FOR INVESTIGATIVE COSTS RECOVERY FSS 938.27(1) CJIS # <b>6093</b>	THE UNDERSIGNED CERTIFIED AND SWEARS THAT HE / SHE HAS JUST AND REASONABLE GROUNDS TO BELIEVE AND DOES BELIEVE THAT THE ABOVE-NAMED DEFENDANT COMMITTED THE FOLLOWING VIOLATION OF LAW: ON THE <b>1</b> DAY OF <b>February</b> , 20 <b>19</b> AT <b>9:45</b> <input type="checkbox"/> A.M. <input checked="" type="checkbox"/> P.M.				
PROBABLE CAUSE STATEMENT	# of Investigative hrs. <b>2</b> x <b>26.00</b> = <b>52.00</b>					
	(SPECIFICALLY INCLUDE FACTS CONSTITUTING CAUSE FOR ARREST.) On 02/01/2019 at approximately 2145 hours, the defendant and victim were engaged in a verbal argument. During the verbal argument, the defendant threw a frozen pork chop at the victim, striking him on his left eyebrow causing an approximate 1/4" laceration. The defendant then fled the scene. It was determined that based on the defendant's statements, and the victim's injuries that Jennifer Brassard was the primary aggressor. The victim and defendant have a domestic relationship, they have dated for the last year and live together. I placed Jennifer Brassard under arrest for domestic battery.					
NOTICE	* * * End * * *					
	P.C. EXISTS FOR CHARGE(S) JUDGE'S SIGNATURE DATE					
ADMINISTRATIVE	I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED WHEN I AM NOTIFIED TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE SUBSCRIBED. I UNDERSTAND THAT SHOULD I WILLFULLY FAIL TO APPEAR BEFORE THE COURT AS REQUIRED ONCE I AM NOTIFIED, THAT I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED. IF CITED FOR A CIVIL INFRACTION, I AGREE TO APPEAR BEFORE THE COUNTY COURT OR COMPLY WITH THE REQUIREMENTS FOR PAYING THE FINE AND MEETING ANY OTHER SPECIFIED CONDITIONS AS INDICATED ON THE BACK SIDE OF THIS AFFIDAVIT.					
	SIGNATURE OF DEFENDANT / ADWELER AND PARENT OR OUTDOOR DATE					
ADMINISTRATIVE	<input type="checkbox"/> MPRANDA WARNING NAME	VERIFIED BY	RIGHT TO REMAIN SILENT	DATE	VICTIM NOTIFIED YES <input type="checkbox"/> NO <input type="checkbox"/>	BOND CHARGE #
	<input type="checkbox"/> ADULT ONLY <input type="checkbox"/> HOLD FOR FIRST APPEARANCE <input type="checkbox"/> DO NOT BOND OUT - REASON					
UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING (DOCUMENT) AND THAT THE FACTS STATED IN IT ARE TRUE, TO THE BEST OF MY KNOWLEDGE AND BELIEF. <i>William Ordeh</i> <b>6093</b>			BOND TYPE 1: CASH 2: BOND 3: SURETY 4: BAIL 5: CERT 6: OTHER			BOND #
NAME (PRINTED) <b>William Ordeh</b>			RETURNABLE COURT DATE			RETURNABLE COURT TIME <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.
CJIS #			RELEASE DATE			RELEASE TIME <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.
CLERK OF COURT			RELEASING OFFICER			PAGE <b>1</b> OF <b>1</b>



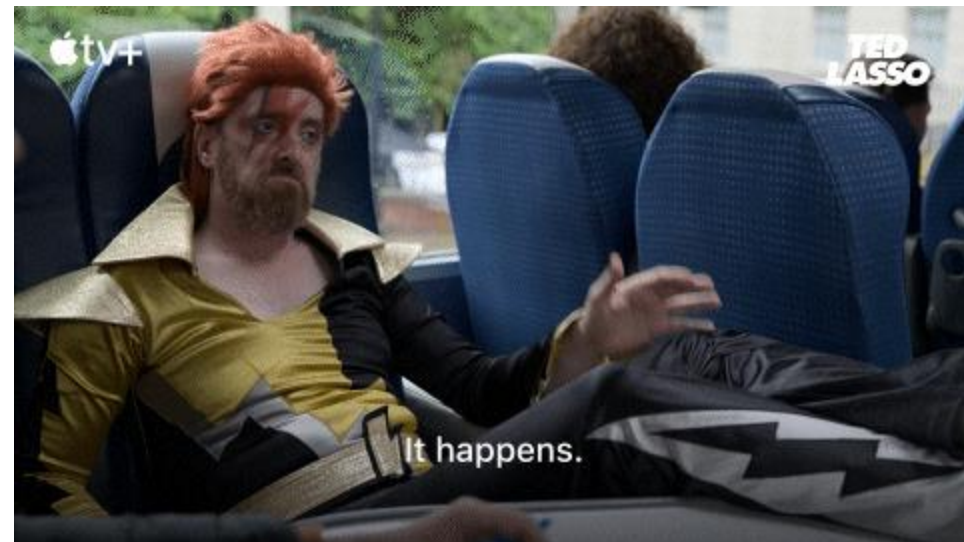
# EMPLOYEES UNDER ARREST

- Does the offense have a nexus to their job?
- Does the offense negatively impact their ability to do their job?
  - Bond conditions?
  - Potential certification action?
- Options
  - Termination
  - Letter of Concern

It has come to my attention that you were arrested by the \*\*\*\*\* County Sheriff's Department on March 7, 2023 for Domestic Violence in the Third Degree. According to the information I have, this arrest stemmed from an altercation between you and your husband at your home.

While this arrest or the conduct you are accused of is not related to your work as a teacher, you should always be aware that your private conduct can have a negative impact on your public position, particularly with respect to how you are viewed by students, their parents, your coworkers and others in the community. Any inappropriate action by a school system employee or official can place this school system in a poor light and reflects poorly on you.

STUDENTS  
UNDER ARREST



# STUDENTS UNDER ARREST

## ❖ Complications

- Student safety / Parent complaints
- Charges may be confidential

## ❖ Students have the right to make bad decisions in their private life

## ❖ Right to a public education, even if placed under arrest

## ❖ Schools can't police or control students 24/7

## ❖ If we do, we also become responsible for students

24/7



# STUDENTS UNDER ARREST

❖ Ask the same questions we ask about employees

Is there a nexus between the conduct and the school?

○ Does the conduct fall under our Code of Conduct?

○ Did the offense take place

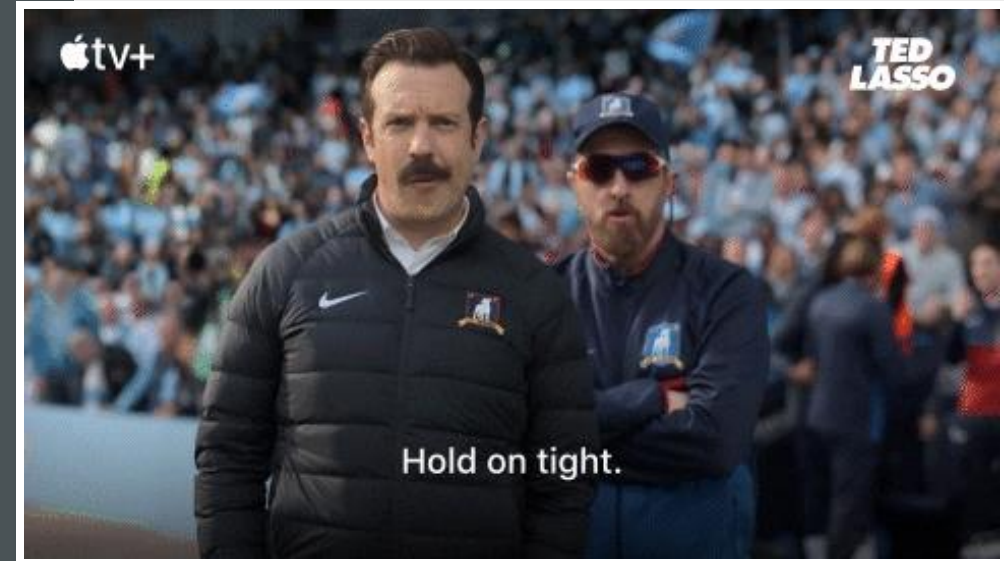
• On school property?

• At a school-sponsored event?

If yes, we can discipline

If no, probably not

❖ Then what do we do?







**TED  
LASSO**

# STUDENTS UNDER ARREST

- Is homeschool an option?
- Is virtual school an option?
- ❖ Check your local policies/Code of Student Conduct to make sure they will allow you to give student access to alternative learning options





FIREARMS &  
MANDATORY  
EXPULSIONS



# FIREARMS & MANDATORY EXPULSIONS

- ❖ Ala. Code §16-1-24.3
- ❖ All boards of education **shall require the expulsion of students, for a period of one year**, who are determined to have brought to school or have in their possession a firearm
  - ❖ in a school building,
  - ❖ on school grounds,
  - ❖ on school buses, or
  - ❖ at other school-sponsored functions.



## FIREARMS & MANDATORY EXPULSIONS

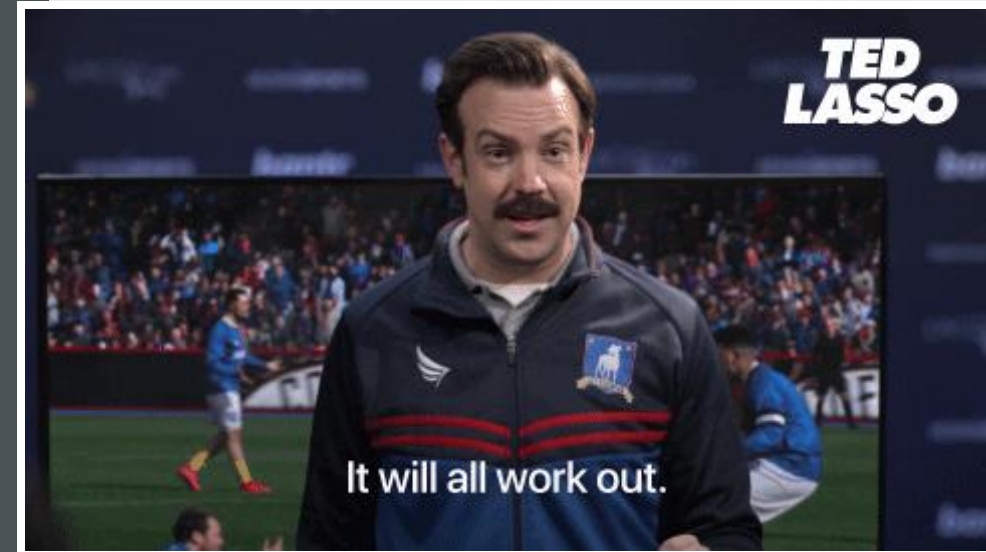
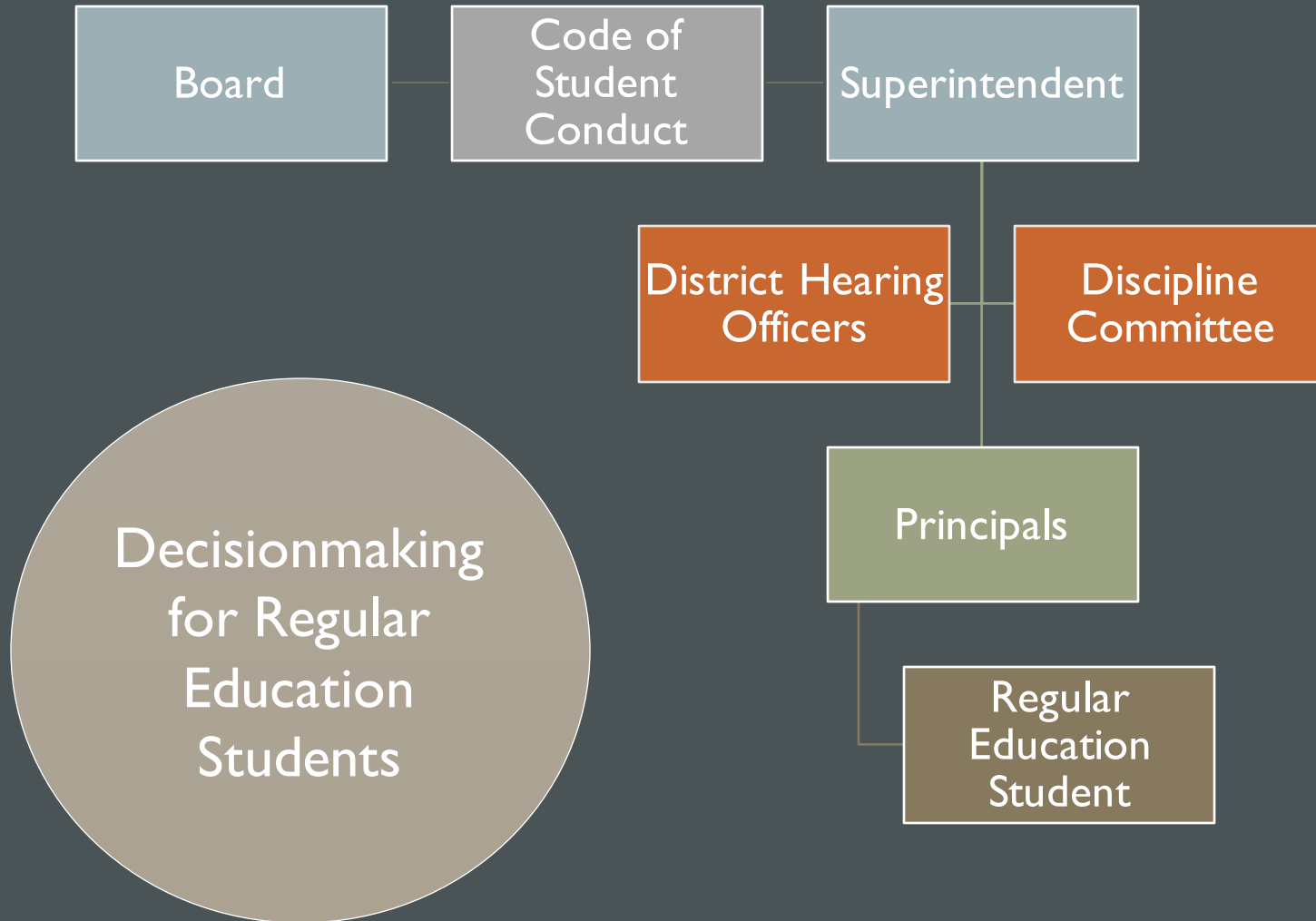
- ❖ Notwithstanding the foregoing, city and county boards of education and the local superintendent of education of each board **may modify the expulsion requirement for a student on a case-by-case basis.**
- ❖ Consider student's intent
- ❖ Guard against discrimination/bias
- ❖ Balance fairness with campus safety



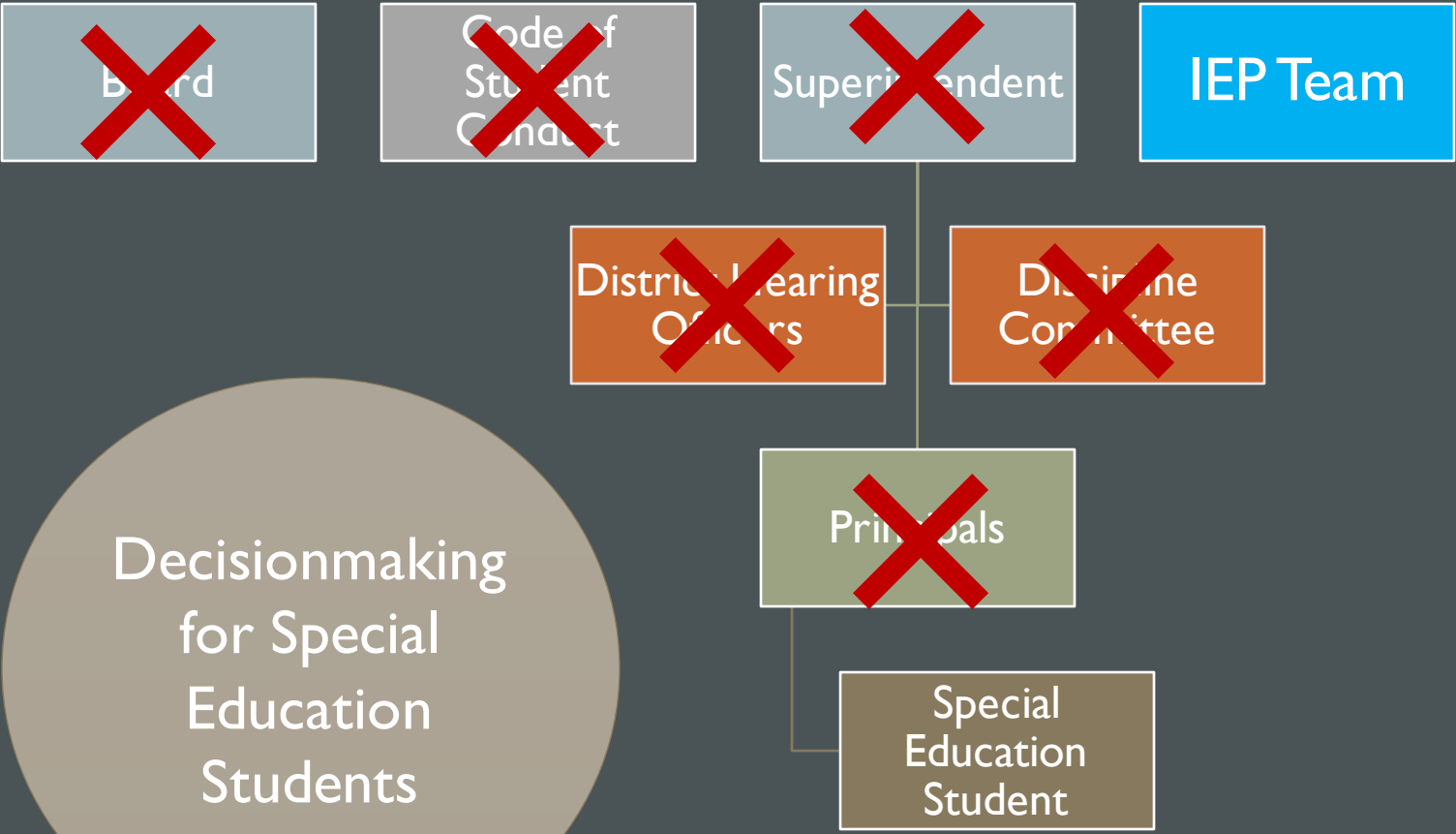
SPECIAL  
EDUCATION  
& DISCIPLINE



# SPECIAL EDUCATION STUDENTS & DISCIPLINE



# SPECIAL EDUCATION STUDENTS & DISCIPLINE



SPECIAL  
EDUCATION &  
INTERDISTRICT  
TRANSFER  
POLICIES





# SPECIAL EDUCATION & INTERDISTRICT TRANSFER POLICIES

- ❖ If you permit out of district students, cannot discriminate against special education students who need SPED services
- ❖ Violation of IDEA

## Interdistrict Transfer Considerations

Allowable Factors	Illegal Factors
Discipline History	Special Education Status
Academic Performance	Race/Ethnicity
Poor Attendance	Religion
Lack of space	



**TED  
LASSO**

Are you okay?

BELIEVE

**TED  
LASSO**





ALABAMA  
ASSOCIATION OF  
SCHOOL BOARDS

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