

SEX OFFENDER ACCESS TO DISTRICT PROPERTY

It is the intent of the Washington State Legislature to give public schools the tools necessary to prevent persons convicted of sex offenses against children who are classified as Level II or Level III sex offenders from contacting children when those children are within the legal premises of a school district. The district will request the cooperation of local law enforcement in providing the written order to leave described below immediately upon receiving notice of a registered sex offender within the district's boundaries.

Written Order to Leave

Lynden School District will order a covered offender from the school district premises as provided under this section. To do this, the superintendent or designee will provide the covered offender, or cause the covered offender to be provided, personal service of a written notice (Form 3145F-1) that informs the covered offender that:

- A. The covered offender must leave the legal premises of the district and may not return without the written permission of the district; and
- B. If the covered offender refuses to leave the legal premises of the district, or thereafter returns and enters within the legal premises of the district without written permission, the offender may be charged and prosecuted for a felony offense as provided in RCW 9A.44.196.

Covered Offenders Defined

"Covered offender" means a person required to register under RCW 9A.44.130 who is eighteen years of age or older, who is not under the jurisdiction of the juvenile rehabilitation authority or currently serving a special sex offender disposition alternative, whose risk level classification has been assessed at a risk level II or a risk level III pursuant to RCW 72.09.345, and who, at any time, has been convicted of one or more of the following offenses:

- A. Rape of a child in the first, second, and third degree; child molestation in the first, second, and third degree; indecent liberties against a child under age fifteen; sexual misconduct with a minor in the first and second degree; incest in the first and second degree; luring with sexual motivation; possession of depictions of minors engaged in sexually explicit conduct; dealing in depictions of minors engaged in sexually explicit conduct; bringing into the state depictions of minors engaged in sexually explicit conduct; sexual exploitation of a minor; communicating with a minor for immoral purposes; patronizing a juvenile prostitute;

- B. Any felony in effect at any time prior to March 20, 2006, that is comparable to an offense listed in (A) of this subsection, including, but not limited to, statutory rape in the first and second degrees and carnal knowledge;
- C. Any felony offense for which (1) There was a finding that the offense was committed with sexual motivation; and (2) The victim of the offense was less than sixteen years of age at the time of the offense;
- D. An attempt, conspiracy, or solicitation to commit any of the offenses listed in (A) through (C) of this subsection;
- E. Any conviction from any other jurisdiction which is comparable to any of the offenses listed in (A) through (D) of this subsection.

Written Order to Permit Entry and Use

The district may give written permission of entry and use (Form 3145F-2) to a covered offender to enter and remain on the legal premises of the district at particular times and for lawful purposes, including, but not limited to, conducting business, or participating in educational or recreational activities. Conditions for entry will be reviewed by the principal in consultation with the superintendent or designee. Any written permission of entry and use of school district premises will be clearly stated in a written document and will be personally served on the covered offender. If the covered offender violates the conditions of entry and use contained in a written document personally served on the offender by the district, the covered offender may be charged and prosecuted for a felony offense as provided in RCW 9A.44.196.

The district may consider requests for written permission under this section from parents or guardians of district students who are covered offenders and who wish to access their child's classroom and/or school sponsored activities for purposes of observing class procedure, teaching material, and class conduct. A denial of written permission may be appealed to the superintendent or designee.

Petition to Challenge Applicability

A person provided with written notice from Lynden School District under this policy may file a petition with the district court alleging that they do not meet the definition of "covered offender" in RCW 9A.44.190. The district court must conduct a hearing on the petition within thirty days of the petition being filed. In the hearing on the petition, the person has the burden of proving that they are not a covered offender. If the court finds, by a preponderance of the evidence, that the person is not a covered offender, the court shall order the district to rescind the written notice and shall order the district to pay the person's costs and reasonable attorneys' fees.

Discretion and Immunity

This policy does not create a mandatory duty to deliver a written order to leave or a written order to permit entry and use. Under Washington State law, Lynden School District is immune from civil liability for damages arising from excluding or failing to exclude a covered offender from a district premises or from imposing or failing to impose conditions of entry and use on a covered offender.

Cross References	Policy 4200 Policy 3144	Safe and Orderly Learning Environment Release of Information Concerning Sexual and Kidnapping Offenders
Legal References	RCW 9A.44.190 RCW 9A.44.193 RCW 9A.44.196 RCW 28A.605.020	Criminal trespass against children—Definitions. Criminal trespass against children—Covered entities. Criminal trespass against children. Parents' access to classroom or school sponsored activities—Limitation.

Adopted: January 23, 2020