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# **MASTERING THE ART OF DIFFICULT DOCUMENTATION**

TURNING CONVERSATIONS INTO DEFENSIBLE RECORDS

**Natalie Hoernschemeyer  
& Grant Wiens**

The background features a dark, almost black, space. In the lower portion, there are dynamic, flowing shapes. On the left, a vibrant red shape curves upwards and then downwards. On the right, a bright cyan/blue shape flows from the top right towards the bottom center, overlapping with the red shape. The overall effect is one of motion and energy.

# Why Does Documentation Matter?

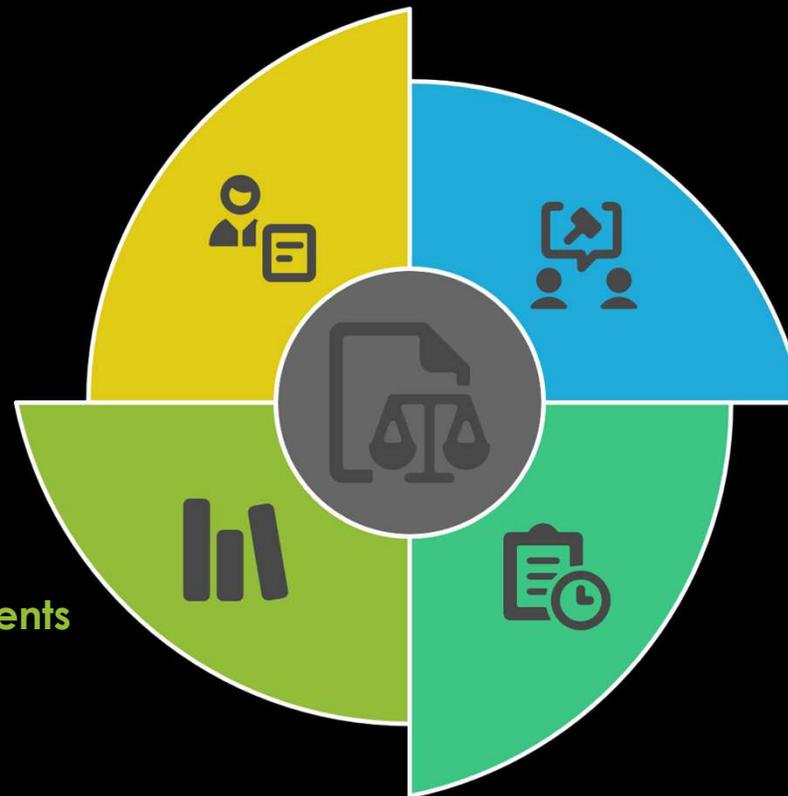
# THE LEGAL IMPORTANCE OF DOCUMENTATION

**Real-life Case Examples  
Demonstrating Legal Impact**

**Role in Litigation and  
Dispute Resolution**

**Compliance with Legal Requirements  
(FERPA, Title IX, HR Policies)**

**Establishing a Timeline  
and Factual Record**



# WHAT CONSTITUTES DEFENSIBLE DOCUMENTATION?



**Objectivity vs. Subjectivity:  
Keeping Records Impartial**



**Specificity & Detail:  
Avoiding Ambiguities**



**Factual Accuracy:  
Reflecting Reality, Not Opinions**



**Proper Format:  
Memos, Emails, Meeting Notes, Incident Reports**

# NAVIGATING DIFFICULT CONVERSATIONS

## Types of Difficult Conversations:

Employee  
Performance  
Reviews

Student  
Discipline  
Issues

Parent  
Complaints  
and Meetings



# DEFENSIBLE RECORDS

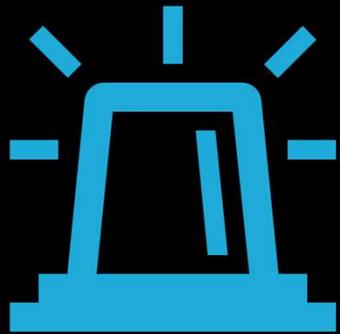
## How to Document

Who was there,  
what was discussed,  
and next steps

## When to Document

Immediately &  
contemporaneous  
notes

# LEGAL PITFALLS TO AVOID

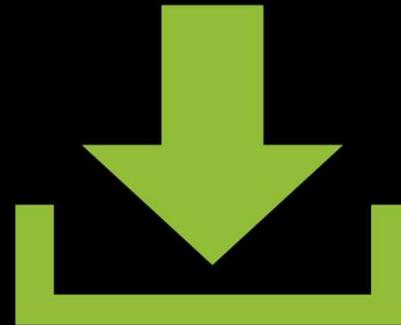


- ✓ Inconsistencies in Records
- ✓ Inadequate Documentation of Key Decisions
- ✓ Use of Informal Communication (*Texts, Personal Email Accounts*)
- ✓ Failure to Maintain Confidentiality and Compliance

# SCENARIO 1

## RESPONDING TO PARENTAL COMPLAINT

Parent files a DEI complaint  
in new OCR portal.



## SCENARIO 2

### DOCUMENTING PERFORMANCE CONCERNS

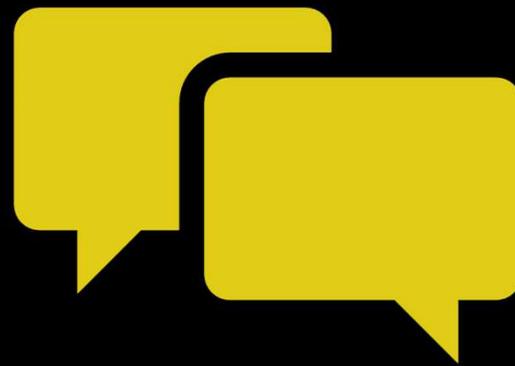
Teacher is . . .

- tardy
- Touching girls' ponytails and flipping their hair
- Too friendly with students
- Lacks classroom management

## SCENARIO 3

### RESPONDING TO PARENTS & EMPLOYEES

SPED student is violent  
with a teacher.



## PROACTIVE STRATEGIES

- Creating a Culture of Consistent Documentation
- Training Staff on Proper Documentation Techniques
- Establishing Documentation Policies & Procedures
- Regular Audits & Legal Reviews of Records





COLLABORATING  
WITH LEGAL  
COUNSEL

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When to Involve Legal  
Counsel in Documentation

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How Legal Review  
Strengthens Defensibility

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Ensuring Protection for  
Privileged Communication



# TAKEAWAYS

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Importance of Defensible Documentation

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Practical Techniques to Turn Conversations into Records

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Legal Risks & How to Avoid Them

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Next Steps for Implementing Best Practices

# CONTINUING THE CONVERSATION

**Natalie Hoernschemeyer**  
natalie@mickesotoole.com  
314-229-0483

**Grant Wiens**  
gwiens@mickesotoole.com  
314-319-1784

**MICKES  
O'TOOLE**