



Denver Academy of Torah



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WATERSHED SCHOOL



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Colorado Rocky Mountain School



Escuela de Guadalupe founded 1999





ANNUAL LEADERSHIP CONFERENCE



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Looking Back & Ahead

National Legal & Governance Trends

ACIS Annual Leadership Conference
October 13, 2023



Megan Mann

independent school alum, parent, and trustee

NAIS General Counsel & Vice President, Legal Education & Support



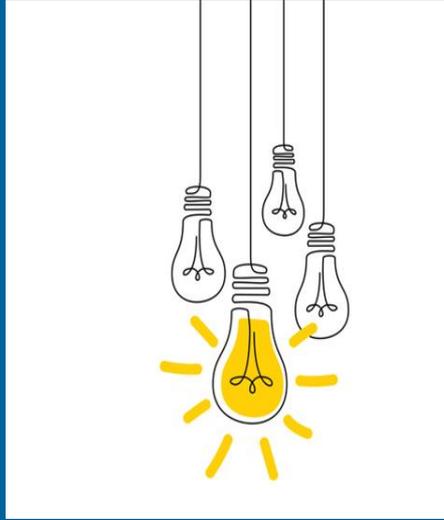
Welcome & Overview



Join us this afternoon, for a deeper dive into **Colorado-Focused Legal Trends and News**, with special thanks to *Steve Kelly and Angie DeVine of S&D Law!*

This Morning's Plan/Goals:

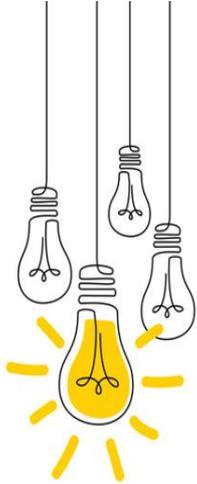
- **Group Reflection**
- **Case Study**
- **Trends: Lightning Round**
- **Q&A (throughout)**



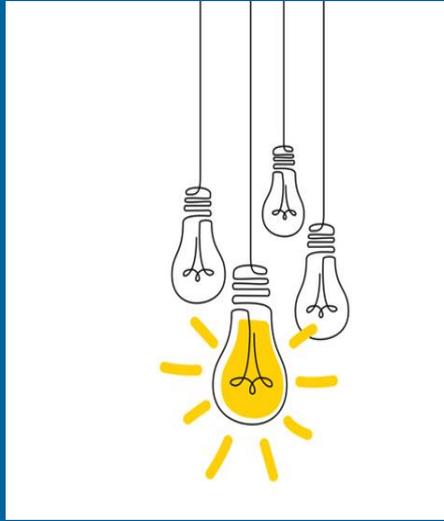
GROUP REFLECTION

Group Reflection

From your perspective as a member of the school's leadership team:



- 1. What is something that works well about your school's Board?** This can be as simple as “the use of the consent agenda” or more complex - if you like the generative discussions around the use of AI.
- 2. What is something that you've noticed, this year in particular, that is going well?**
- 3. What is something you hope the Board will work on?**
- 4. What concerns do you have related to liability and risk management?**



CASE STUDY

Fuzzy Math

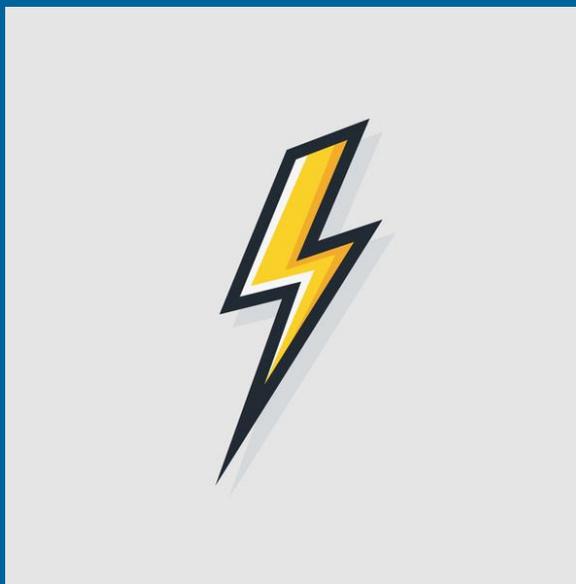
Bayside School, a pre-K–12th grade school, located in the great state of Call-Or-Otto, has a solid reputation for its academic excellence. Its mission statement includes the language “***each for the other, all for the whole, pursuing academic excellence and growth....***” Bayside competes with several schools in the area, and annually loses both applicants and previously-enrolled students to Rydell and Hogwarts, among other schools. Over the past 2-3 years, in particular, a small but growing number of parents have been complaining about the “fuzzy math” being taught at the school and a few families have even cited this as one of the reasons for moving to Rydell/Hogwarts before finishing the lower or middle school programs at Bayside.

(CONTINUED ...)

At two separate board meetings, two separate Bayside trustees have raised the issue of math curriculum. Separately, Bayside's math department is not fully staffed and it has been a challenge to recruit and retain talent in the department. Bayside also competes with the local schools for this talent and has considered requesting a "Gentleman's Agreement" to avoid poaching, ensure robust and competitive teacher salaries and equity in the area and industry, and to end the game of talent "hot potato". This entire "fuzzy math" issue comes to a bit of a head at the latest Board meeting. Kelly and Zach, two trustees who are also current parents, ask that the Board take on the math curriculum - demanding an audit of the program, citing its direct tie to the mission of the school and their fiduciary responsibility in light of lost families. They want the entire Board to vote, that evening, on whether to approve a Board-overseen audit of the Math Department/Curriculum.

(FUZZY MATH - COMPLETE SCENARIO - DISCUSS IN SMALL GROUPS)

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TRENDING TOPICS & PRACTICAL TAKEAWAYS: THE *LIGHTNING* ROUND

Governance Practices

- Board **and Head** Education
 - Emphasis on both
 - Roadmap - be intentional; consider the 3 modes of governance
- Board size and composition
 - Boards are getting smaller
- Board's role in a crisis, in risk management
 - Think about this in advance; discuss and train
- Board overstep and confusion (and community confusion about the Board's role)

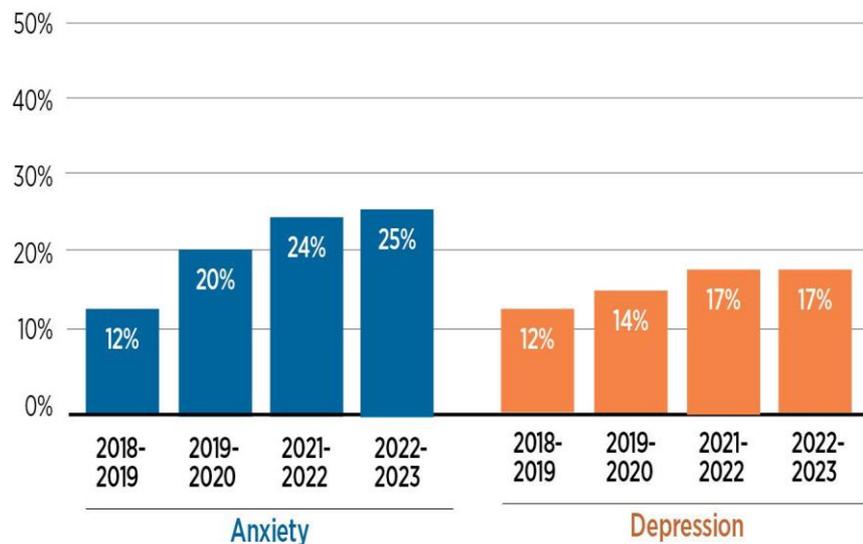
Governance Documents

- Bylaws
 - Review, construction
 - Flexibility, simplicity, clarity
 - Consider how to use other documents for more clarity, flexibility (charters, policies, etc.)
- Other
 - Policies, Surveys, Education Tracking
 - What do you have and why? Is it appropriate and does it serve you well?

Mental Health

Students Have Experienced More Anxiety and Depression Since the Pandemic

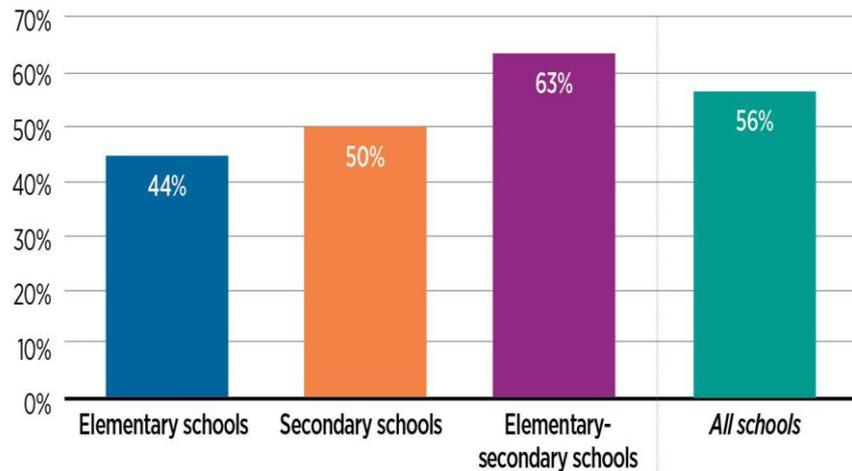
Independent high school students diagnosed with anxiety and depression by a professional



Source: Independent School Health Check, Special Reports

Mental Health Concerns Are Manifesting as Suicide Threats or Incidents at Many Schools

Schools that dealt with a suicide threat or incident in the first half of the 2022-2023 academic year



Source: NAIS Snapshot Survey, "Security Measures," Week of January 23, 2023

Mental Health

- Major focus on counseling offices and services
 - Investment, training, partnerships, policies
- Rise in mental health leaves of absence
 - Student - requested/required
 - Employee
- Suicide awareness, threat assessments
 - Policies and training

Hiring

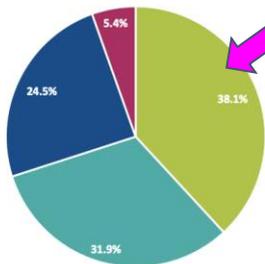
- Ongoing assessment of:
 - What documents to use when hiring, “renewing”, or continuing employment
 - *See research*
 - Background checks
 - What to check (e.g., social media?), how to check, how often to check
 - *A note about volunteers and trustees*

1.

What types of employment documents do you use for new faculty?

n = 348

- At-will offer letters
- Academic year/yearlong contracts
- Contracts that maintain at-will status
- Other



OTHER ANSWERS

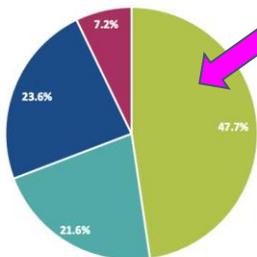
- At-will employment agreements
- Academic year contracts that maintain at-will status

What types of employment documents do you use for new administrators/staff?

2.

n = 404

- At-will offer letters
- Academic year/yearlong contracts
- Contracts that maintain at-will status
- Other



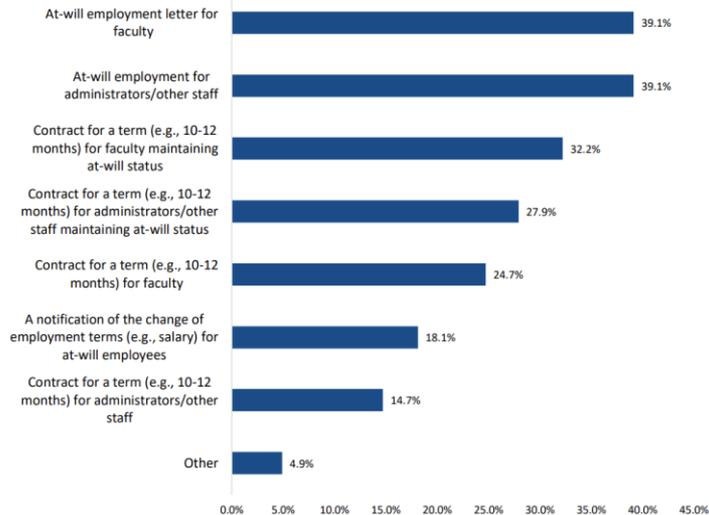
OTHER ANSWERS

- At-will letters for staff, yearlong contracts for administrators.
- Employment agreement letters that maintain at-will status

3.

What type of documentation do you give to employees you would like to return or retain for the following year? Please select all that apply.

n = 348



OTHER ANSWERS:

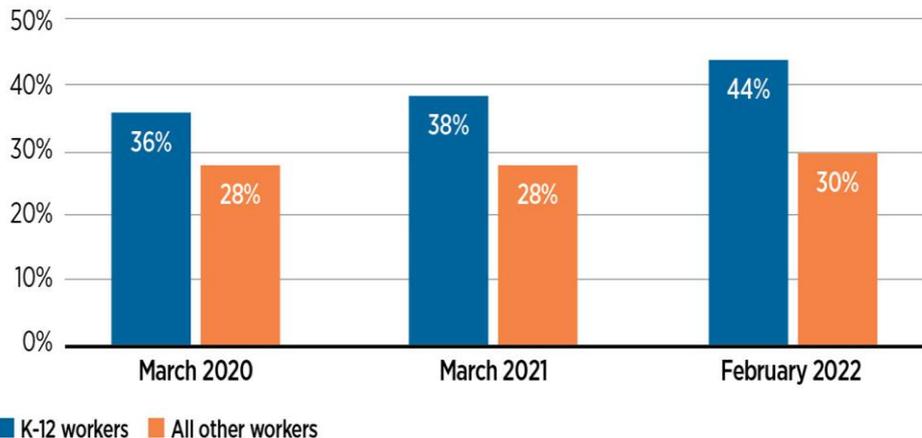
- Employment agreement for 12-month term
- At-will letter of intent



Talent Retention

K-12 Workers Experience Burnout to a Greater Degree Than Other Workers

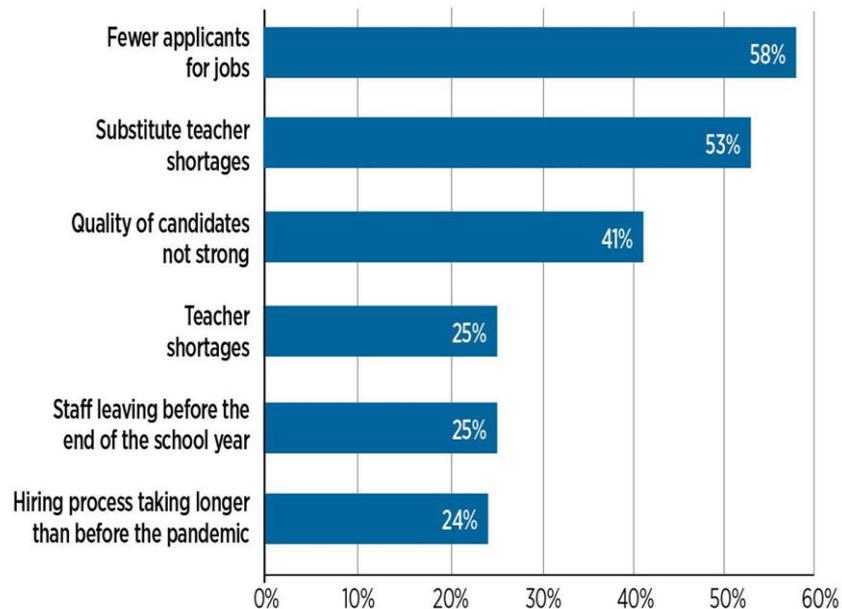
Percentage of workers experiencing burnout very often/always, March 2020 to February 2022



Source: Stephanie Marken and Sangeeta Agrawal, "K-12 Workers Have Highest Burnout Rate in U.S.," Gallup

Schools Face Many Challenges in Recruiting and Keeping Teachers

Percentage of heads of school reporting these issues in the first half of 2022-2023



Source: NAIS Snapshot Survey, "Faculty and Staff Turnover," Week of February 13, 2023

Unionization

- Ongoing chatter about the unionization of schools
 - From education unions and others (e.g., auto workers)
 - Schools are focusing on trust, community-building, grievance consideration
 - Assessing lines and modes of communication

The IS Business Model Dilemma

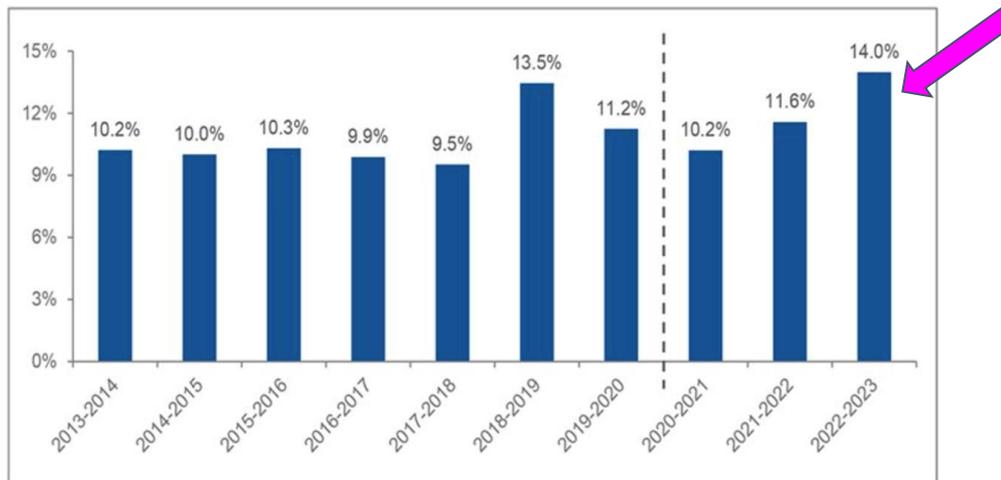
The Painful But Necessary Trifecta

- (1) Tuition + (2) Staff Compensation + (3) Retention of Talent *and* Families
 - Starbucks education - demand for customization
 - Lack of understanding by parent communities about the school's purpose, role, offerings, responsibilities (and theirs)
 - Trouble with the business model

Head of School Retention/Turnover

- **25%** of head turnovers were *unexpected* in 2022-2023. **28%** in 2021-2022
- 25% of heads who started in 2019-2020 are no longer in their role.
- Average tenure decreasing. For 2022-2023, it fell again, to 7.0 years.

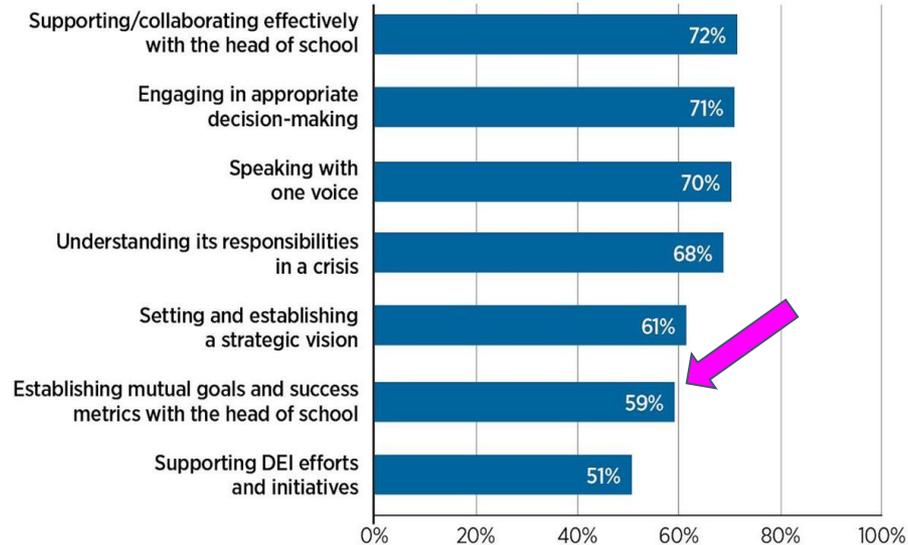
Share of NAIS member and subscriber schools in the U.S. with a new or first-year interim head, 2013-2014 to 2022-2023



What Heads Are Saying About Board Support

Heads Feel Confident About Boards' Support

Heads' perceptions of board performance



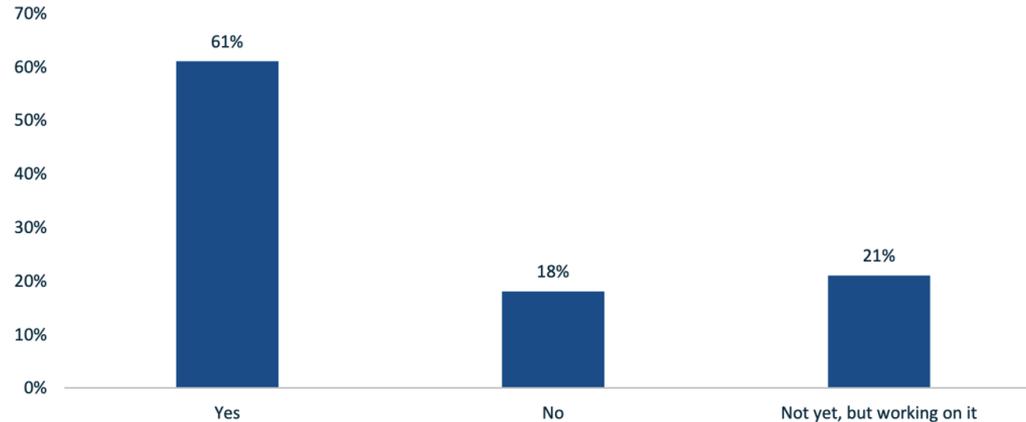
Source: NAIS Snapshot Survey, "Stressors on Heads of School," Week of April 3, 2023

Head of School Employment Agreements

- Please use a lawyer - that person represents the *school*
 - This is a situation where the head does not represent the school. So, who represents the head?
 - Who pays?
- What terms are people focusing on?
- What should they be focusing on?

Risk Management > Safety > Security

Do you have a process for evaluating and managing risks at your school?

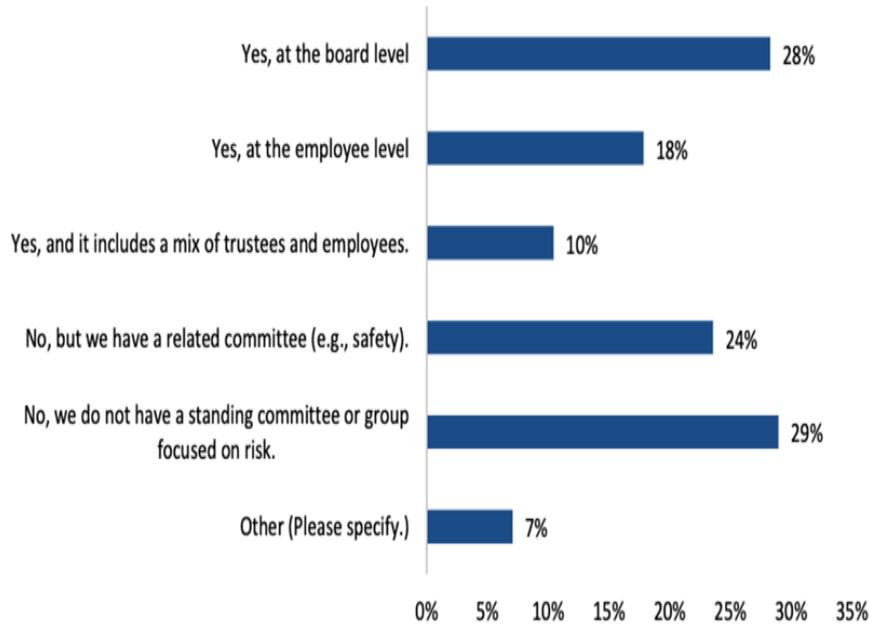


¹ Note: Percentages may not equal 100 due to rounding.

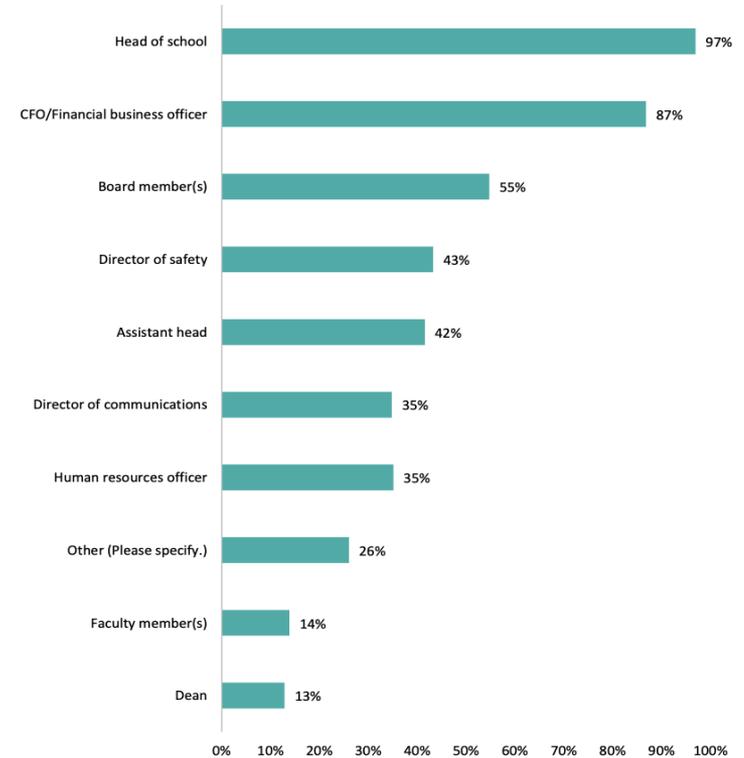
NAIS Research

1

Does your school have a set risk management committee? Please check all that apply.



Who is involved in ongoing risk management at your school? Please check all that apply.



Other responses include director of operations, director of facilities, director of athletics, director of finances, school lawyers, and counselors.

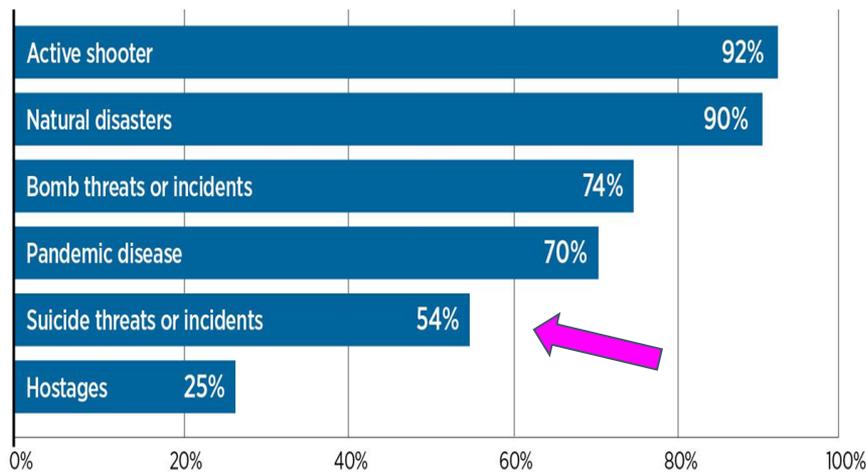
Does your risk management process include a review of risks related to the following topics? Please select all that apply.



Risk Management > Safety > Security

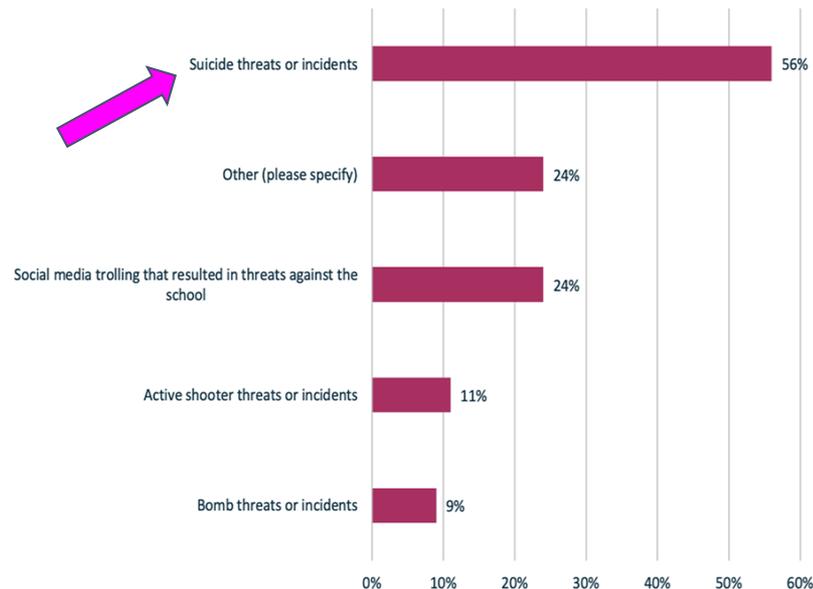
The Majority of NAIS Schools Have Written Crisis Plans

Percentage of schools with written plans for various crises



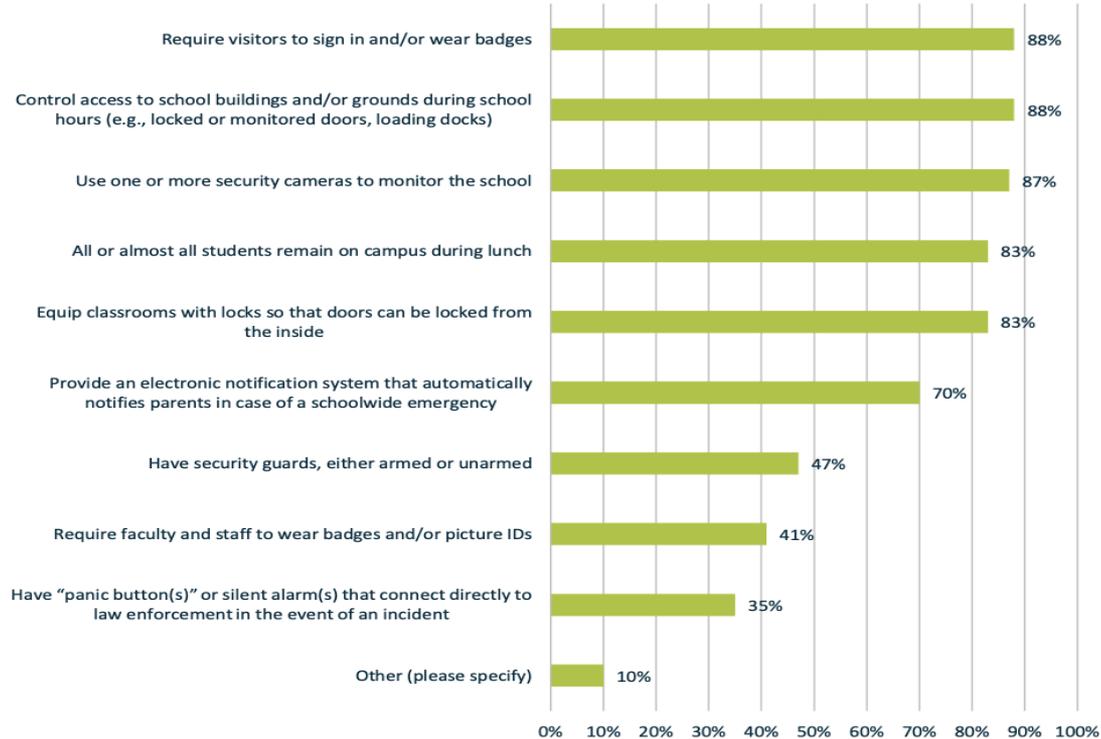
Source: NAIS Snapshot Survey, "Security Measures," Week of January 23, 2023

During the current academic year, has your school experienced any of the following threats? (includes only schools reporting a threat)



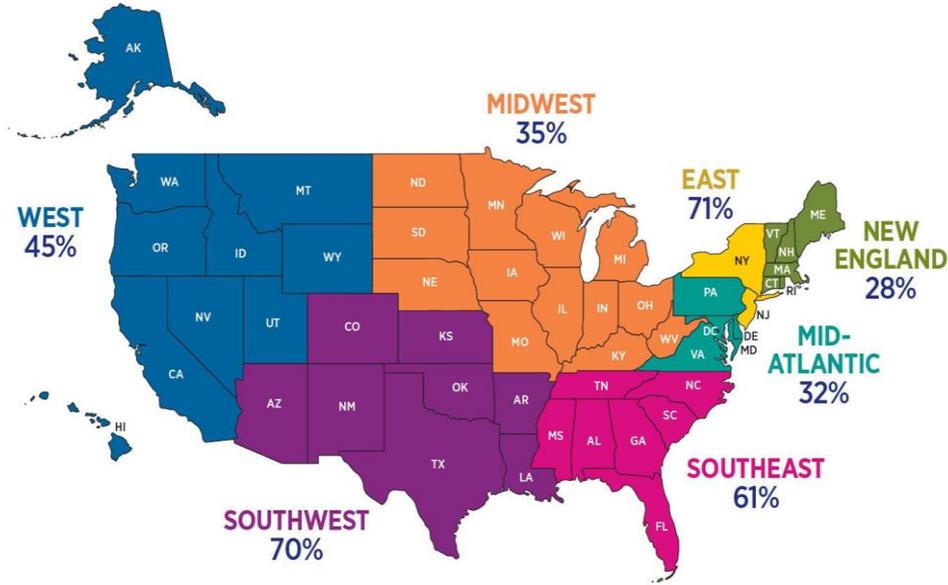
Risk Management > Safety > Security

Which of the following practices are currently implemented at your school? Please select all that apply.



The East, Southwest, and Southeast Regions Are Most Likely to Have Security Guards

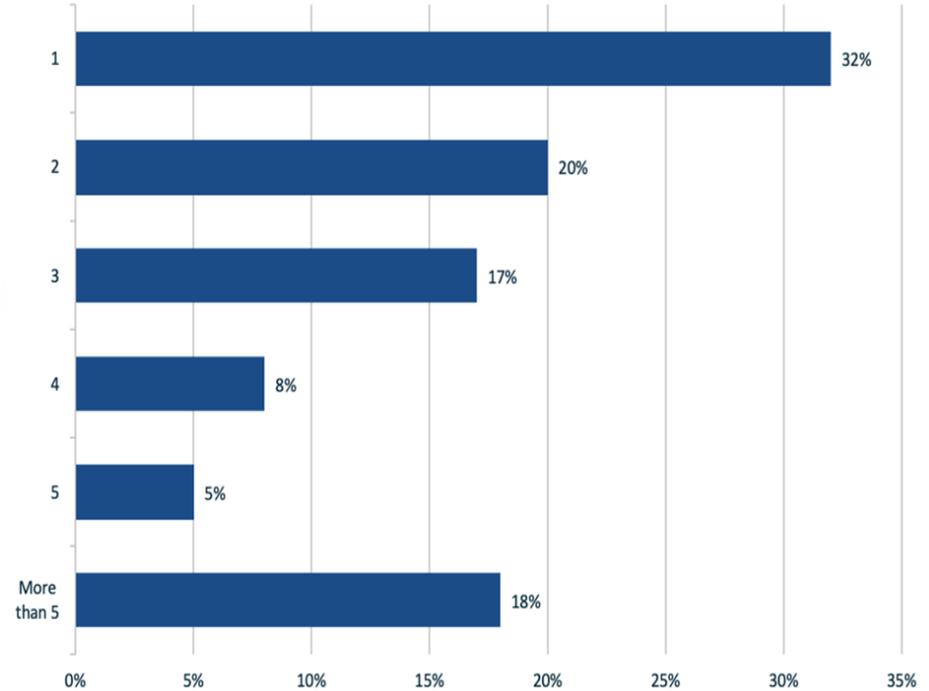
Percentage of independent schools with security guards, by NAIS region*



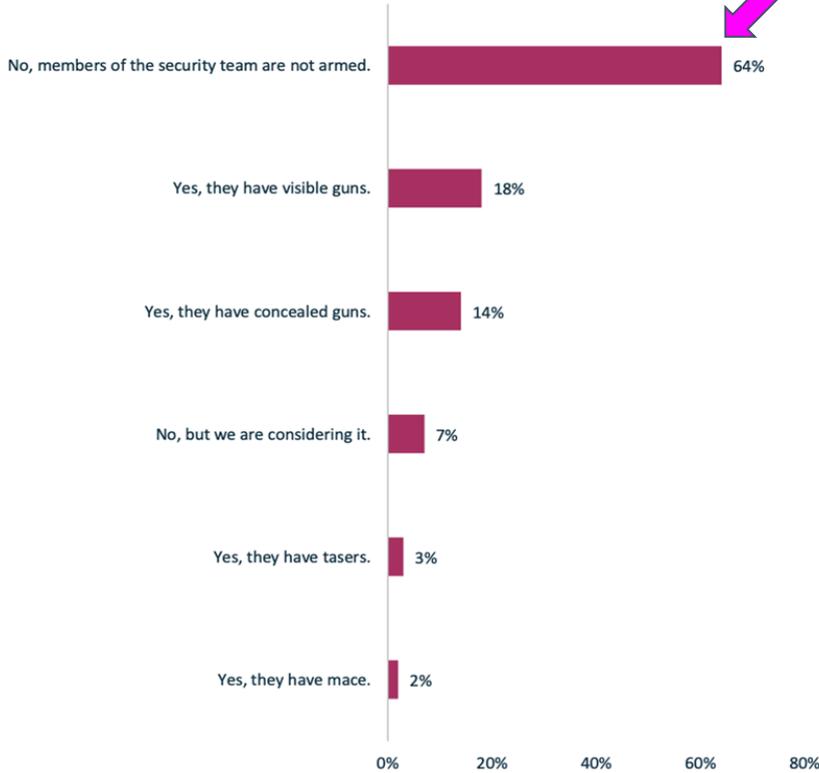
* NAIS uses the following definitions of regions: **East** (NY, NJ); **Mid-Atlantic** (DE, DC, MD, PA, VA); **Midwest** (IL, IN, IA, KY, MI, MN, MO, NE, ND, OH, SD, WV, WI); **New England** (CT, ME, MA, NH, RI, VT); **Southeast** (AL, FL, GA, MS, NC, SC, TN); **Southwest** (AZ, AR, CO, KS, LA, NM, OK, TX); and **West** (AK, CA, HI, ID, MT, NV, OR, UT, WA, WY).

Source: NAIS Snapshot Survey, "Security Measures," Week of January 23, 2023

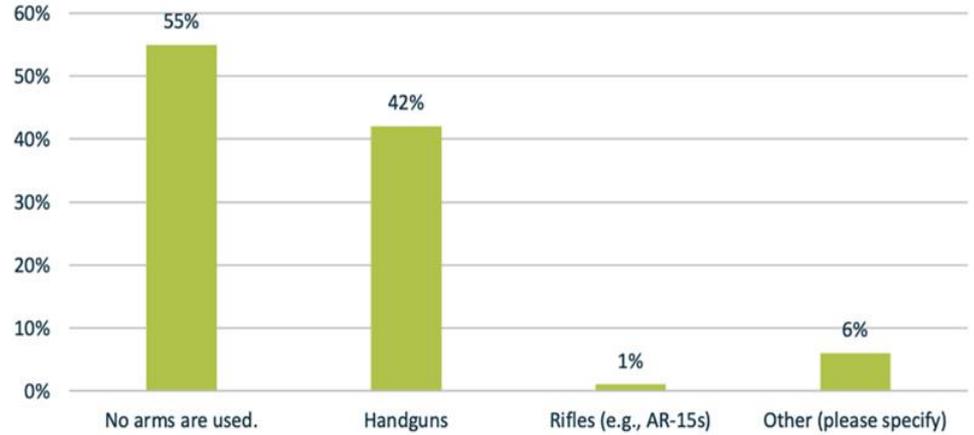
How many employees (full- or part-time) are devoted to security at your school?



Do any members of your security team carry weapons?
Please select all that apply.



If any member of your security team is armed, what type of firearms are they using? Please select all that apply.



Politics on Campus (and other polarizing conflict)

- Election season
 - 501(c)(3)
 - What we wear and do
 - Civil discourse policies
 - Alienation
 - Education
- Other polarizing topics creating challenges in schools
 - “Culture War” topics, such as books (bans/opinions), DEI(JB), curriculum; major historical events (e.g., the war)

QUESTIONS?



THANK YOU FOR HAVING ME!

Megan Mann

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Admissions Practices

Trend

- What are we asking for and why?
- How to handle learning and behavioral differences?
 - The need for support?
 - The three approaches in terms of risk

Takeaway