

## **LEGAL PROTECTION**

### **Liability Insurance**

The Governing Board shall provide insurance necessary to protect Board members and employees while acting within the scope of their office or employment in accordance with Education Code 35208.

The Governing Board shall ensure the district's liability for death, personal injury or damage; loss of property, and ensure the personal liability of Board members, district officers and employees for death, personal injury or damage/loss of property caused by their negligent act or omission when acting within the scope of their office or employment. The District may self-insure by provisions of Education Code 35214.

### **Protection against Liability**

No Board member shall be liable for harm caused by his/her act or omission when acting within the scope of district responsibilities. The act or omission must be in conformity with federal, state and local laws and made in furtherance of an effort to control, discipline, expel or suspend a student, or maintain order or control in the classroom or school. (20 USC 6736)

The protection against liability shall not apply when: (20 USC 6736)

1. The board member acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to the harmed person's right to safety.
2. The Board member caused harm by operating a motor vehicle.
3. The Board member was not properly licensed, if required, by the State for such activities.
4. The Board member was found by a court to have violated a federal or state civil rights law.
5. The Board member was under the influence of alcohol or any drug at the time of the misconduct.
6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the Board member has been convicted in a court.
7. The misconduct involved a sexual offense for which the Board member has been convicted in a court.

Legal Reference:

EDUCATION CODE

- 17029.5 Contract funding; board liability
- 35208 Liability insurance
- 35214 Liability insurance (self-insurance or a combination of self-insurance and insurance through an insurance company)

GOVERNMENT CODE

- 815.3 Intentional torts
- 820-823 Tort Claims Act
- 825.6 Indemnification of public entity
- 1090-1098 Conflicts of interest, prohibitions applicable to specified officers
- 54950-54963 The Ralph M. Brown Act
- 87100-89503 Conflicts of interest

UNITED STATES CODE, TITLE 18

- 16 Crime of violence defined

UNITED STATES CODE, TITLE 20

- 6731-6738 Teacher Protection Act

COURT DECISIONS

- Caldwell v. Montoya (Paramount Unified School District) 10 Cal 4<sup>th</sup> 972 (1995)

ADOPTED: 7/12/95

REVISED: 7/14/04, 6/10/2015