

School Board Member Liability

Are you confused about just who in your district has final authority and liability for the decisions being made?

If the final approval for staffing, curriculum, policies, financial management etc.... are made by the school board, does this mean that when a charges, allegations and lawsuit are waged, the board bears the burden of liability? Yes- Senator Andy Brenner, Yes Diane Fessler

School boards often delegate authority for the recommendations to the Superintendent and the Treasurer but does this release them from the liability? No- DF and not sure - AB

Does indemnification release board members from this possible liability? Punitive damages? Not sure – AB, Questionable DF

Asking these questions on record and in writing. Get a record.

Comments by Andy Brenner- “the board hires the Superintendent, if they are not doing their job they need to be let go. If Superintendent is simply carrying out policies given by the Health Department than the Health Department should be liable.”

Comments from Jack Appleby

In operational theory, final district authority and liability lies with the school board. As a safeguard to make certain a board does not overstep its authority a solicitor is retained to guide and support them.

Operational authority starts at the Board level but moves downward through the organizational structure and ends in each teacher's classroom. Board's delegate authority to the building administrators, who provide both oversight and direction. In practice, Boards are less likely to face a lawsuit but members of their leadership structure are most likely to face a court summons.

However, Boards and their leadership teams can be sued and end up in court. As a former school administrator, I have been named in a federal suit that evolved from a student disciplinary issue. Often in this type of case the persons filing the complaint takes a “shotgun” approach bring the case against all. In my particular case, the suit was brought against two different school districts simultaneously by the parents. Usually as the court case develops individuals are exonerated, leaving the superintendent and one or two key administrators facing the court's ruling.

Indemnification does not totally release a board from liability if it can be proven there was direct maleficence on the part of a board member(s) and/or the act or decision was purposefully harmful and damaging, but these cases are very difficult to document and prove.

In our current society where litigation is common, it is imperative that board's take every caution to be on the right side of all issues and have a well-trained administrative team. This is one reason for boards and their leadership teams to work and train together so there is a clear understanding of how authority and accountability flows through the school district's organizational chart. Knowledge is power. Board training is an imperative.