

Bylaw 9260: Legal Protection

Status: ADOPTED

Original Adopted Date: 03/01/1988 | Last Revised Date: 03/01/2025 | Last Reviewed Date: 03/01/2025

Liability Insurance

CSBA NOTE: Education Code 35208 requires the Governing Board to insure against the personal liability of Board members for death, personal injury, or damage/loss of property caused by a Board member's negligent act or omission when acting within the scope of the Board member's office. Districts may self-insure pursuant to Education Code 35214. See BP/AR 3530 - Risk Management/Insurance for additional information regarding district insurance requirements.

The Governing Board shall provide insurance necessary to protect Board members from liability caused by a negligent act or omission that occurs within the scope of the Board member's office in accordance with Education Code 35208.

CSBA NOTE: Pursuant to Government Code 820.9, Board members are not vicariously liable for injuries caused by the district's acts or omissions. Additionally, in *Caldwell v. Montoya*, the California Supreme Court determined that Board members are immune from suits pursuant to Government Code 820.2 when performing "discretionary acts," such as basic governmental policy decisions, within the scope of their duties. Personal and/or criminal liability may exist, however, for injuries caused by the individual's own "wrongful" conduct, for some civil rights violations, or knowing violations of the Brown Act. See BB 9323.2 - Actions by the Board. Because the determination as to whether personal liability exists is dependent on the specific facts of each case, it is recommended that the district consult CSBA's District and County Office of Education Legal Services or district legal counsel if a question arises when making such a determination.

Protection Against Personal Liability

No Board member shall be liable for any harm caused by the Board member's negligent act or omission when acting within the scope of the Board member's responsibilities, including, but not limited to, Board responsibilities as specified in Board Bylaw 9000 - Role Of The Board. Additionally, no Board member shall be vicariously liable for injuries caused by the district's acts or omissions. (Education Code 35208; Government Code 820.9)

In addition, no Board member shall be liable for any harm caused by the Board member's act or omission if the Board member was acting within the scope of the Board member's responsibilities, made 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 7946)

This protection against liability shall not apply when: (20 USC 7946)

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

Nothing in this Board bylaw is intended to protect a Board member from criminal or civil liability for injury caused by the Board member's own wrongful conduct, for certain violations of law, including the Brown Act, or for liability from the requirement to reimburse the district under certain circumstances as specified in law. (Government Code 820.9, 825, 825.6, 54959, 54960)

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the

policy.

State

Ed. Code 17029.5

Ed. Code 35208

Ed. Code 35214

Gov. Code 1090-1098

Gov. Code 54950-54963

Gov. Code 815.3

Gov. Code 820-823

Gov. Code 825-825.6

Gov. Code 87100-89503

Description

[Contract funding; board liability](#)

[Liability insurance](#)

[Liability insurance \(self-insurance or a combination of self-insurance and insurance through an insurance company\)](#)

[Prohibitions applicable to specified officers](#)

[The Ralph M. Brown Act](#)

[Intentional torts](#)

[Tort claims act](#)

Indemnification of elected officials

[Conflicts of interest](#)

Federal

18 USC 16

20 USC 7941-7948

Description

[Crime of violence; definition](#)

Teacher liability protection

Management Resources

Court Decision

Website

Description

Caldwell v. Montoya (1995) 10 Cal 4th 972

[CSBA District and County Office of Education Legal Services](#)

Cross References

1330.1

3530

3530

4119.1

4219.1

4319.1

9000

9124

9323.2

9323.2-E(1)

Description

[Joint Use Agreements](#)

[Risk Management/Insurance](#)

[Risk Management/Insurance](#)

[Civil And Legal Rights](#)

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