

# Salinas City Elementary School District

## LEGAL PROTECTION

### Liability Insurance

The Governing Board shall provide insurance necessary to protect Board members and employees from any judgment resulting from suits brought against them alleging their liability while acting within the scope of their employment and/or under the direction of the Board. The insurance shall cover claims in such matters as civil rights actions, negligence or other acts resulting in accidental injury to any person or damage to property.

Note: Pursuant to Government Code 820.9, Board members are not vicariously liable for injuries caused by the district's acts or omissions. Personal liability exists, however, for injuries caused by the individual's own wrongful conduct. Personal liability also may exist under the following situations: (1) failure to comply with the Field Act, when an individual is injured because of unsafe buildings, playground equipment, bleachers etc., (2) knowing violations of the Brown Act, which may subject Board members to misdemeanor penalties, (3) violation of conflict-of-interest statutes, and (4) some civil rights violations, for which claimants may name individual defendants in addition to the district as a whole. In *Caldwell v. Montoya* (Paramount Unified School District), the California Supreme Court discussed personal immunity from suits when Board members perform "discriminatory acts" within the scope of their duties. The case stated that Board members cannot be held individually liable on the basis of a vote not to renew a superintendent contract, even if their reasons for not renewing the contract violated the Fair Employment and Housing Act.

### 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.