

## Bylaws of the Board

### LEGAL PROTECTION

#### Liability Insurance

Note: Education Code 35208 requires Governing Boards to insure the district's liability for death, personal injury or damage/loss of property, and insure the personal liability of Board members, district officers and employees for death, personal injury or damage/loss of property caused by the negligent act or omission of the Board member, officer or employee. Districts may self-insure by provisions of Education Code 35214.

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.

*(cf. 3530 – Risk Management/Insurance)*

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 tec., (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.

#### *Legal Reference*

##### EDUCATION CODE

1729.5 *Contract funding; board liability*

35208 *Liability insurance*

35214 *Liability insurance (self-insurance or a combination of self-insurance and insurance through an insurance company)*

39140-39159 *Field Act, approvals*

39210-39232 *Field Act, fitness for occupancy*

##### GOVERNMENT CODE

820.9 *Immunity from liability*

815.3 *Intentional torts*

825 *Defense by public entity*

825.6 *Indemnification of public entity*

1090-1098 *Conflicts of interest, prohibitions applicable to specified officers*

54950-54957.9 *The Ralph M. Brown Act*

87100-89505 *Conflicts of interest*

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

Adopted: February 13, 1992

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**WEST SONOMA COUNTY UHSD**

Sebastopol, California