

## **LEGAL PROTECTION**

### **Liability**

Members of the Monterey County Board of Education (County Board) shall not be liable for harm caused by their acts or omissions when acting within the scope of responsibilities as representatives of the Monterey County Office of Education (MCOE). However, the acts or omissions must be in conformity with federal, state and local laws.

County Board members are not vicariously liable for injuries caused by MCOE's acts or omissions. [Government Code 820.9] County Board members are also immune from suits when performing "discretionary acts," such as basic governmental policy decisions, within the scope of their duties. Personal liability exists, however, for injuries caused by the individual's own wrongful conduct and may also exist, in some circumstances, for civil rights violations or knowing violations of the Brown Act.

*(cf. 9323.2 - Actions by the Board)*

### **Liability Insurance**

The Monterey County Superintendent of Schools is requested to provide insurance necessary to protect County Board members and employees while acting within the scope of their office or employment.

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

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 4th 972 (1995)*

Adopted:      8/21/13