

POLICY

No. 4710

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INDEMNIFICATION AND LEGAL DEFENSE OF BOARD MEMBERS-EMPLOYEES - AUTHORIZED VOLUNTEERS

The Board of Cooperative Educational Services of Albany-Schoharie-Schenectady-Saratoga Counties shall defend and indemnify its members of the Board of Education, employees and authorized volunteers as follows:

Purpose: The purpose of this policy is to implement the provisions of Education Law §3023, 3028 and 3811 and the provisions of the Indemnification and Legal Defense Resolution adopted by BOCES pursuant to Public Officers Law §18.

Defense: BOCES shall provide and pay for legal services and reasonable expenses incurred in the defense of any civil action or proceeding arising out of an act or omission of any such person while acting within the scope of their employment or duties for BOCES (except in an action or proceeding brought by BOCES), and for the defense of a criminal action against an employee or authorized volunteer arising out of the discipline of a pupil while acting within the scope of their employment or duties for BOCES.

Indemnify: BOCES shall indemnify and hold harmless any such person from any judgment, settlement, costs or expenses arising out of an act or omission within the scope of their employment or duties for BOCES, except where liability arises from intentional wrongdoing or recklessness.

Condition: The obligation of BOCES to provide defense and indemnification is subject to the conditions that (1) copies of all legal papers received (including any summons,

Adopted: April 12, 2001

Ratified: May 21, 2001

Amended:

complaint, notice and demand) shall be delivered to the District Superintendent or to the Clerk of the Board within ten (10) calendar days of receipt, and (2) such person shall give their full cooperation in the defense of such action or proceeding.

INDEMNIFICATION AND LEGAL DEFENSE RESOLUTION
Public Officers Law §18

WHEREAS Education Law §3023 requires BOCES to indemnify its employees, school volunteers and practice teachers from financial loss arising out of any claim of negligence or other act resulting in accidental personal injury or property damage when such person was acting within the scope of their duties for BOCES; and

WHEREAS Education Law §3028 requires BOCES to provide and pay for legal services and expenses incurred by its employees and school volunteers in the defense of any civil action or any criminal action arising out of discipline against a pupil, provided such person was acting within the scope of their duties for BOCES; and

WHEREAS Education Law §3811 provides that when BOCES adapts a resolution authorizing (1) the defense of a specific civil action against BOCES for any of its officers or (2) the prosecution or defense of a specific action or proceeding involving any property or claim of BOCES, that BOCES shall pay all damages, costs and reasonable expenses (including legal services) incurred by a member of the Board of Education, an employee, member of a CSE or a surrogate parent in the prosecution or defense of any such action or proceeding, provided that such person was acting within the scope of their duties for BOCES, and provided further that the action or proceeding was not a criminal action or was not brought against such person by BOCES; and

WHEREAS Public Officers Law §18 provides that BOCES can confer upon members of its Board of Education, employees and authorized volunteers the right to be defended by BOCES in civil actions and proceedings (except an action or proceeding brought by or on behalf of BOCES), the right to be indemnified against financial loss from any judgment or settlement, when such action or proceeding arose out of an act or omission which occurred while such person was acting within the scope of their duties for BOCES; and

WHEREAS BOCES wishes to extend the benefits and protections of Public Officers Law §18 and Education Law §3811 to members of its Board of Education as well as to its employees and authorized volunteers; therefore

IT IS RESOLVED that BOCES shall defend and indemnify members of its Board of Education, its employees and authorized volunteers as follows: (1) BOCES shall defend any civil action or proceeding brought against such person for acts or omissions within the scope of their duties for BOCES, except when the action or proceeding is brought by or on behalf of BOCES; and (2) BOCES shall indemnify and save harmless such person against financial loss from any judgment or the settlement of any claim which arose out of acts or omissions within the scope of their duties for BOCES, except that no indemnification shall be provided where the injury or damage resulted from intentional wrongdoing or recklessness. The benefits conferred by this resolution shall be supplemental to and in addition to the benefits and protections provided by Education Law §§3023, 3028 and 3811; and

IT IS FURTHER RESOLVED that the benefits and protections of Education Law §3811 shall be provided by BOCES when its Board of Education authorizes the defense or the prosecution of a specific case.